VOLUME 45, NUMBER 11 LEGISLATIVE RESEARCH COMMISSION MAY 1, 2019

ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, April 15, 2019.

MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet on May 14, 2019, at 1:00 p.m. in room 149 Capitol Annex.

ARRS Tentative Agenda - 3007 (Updates available here)

INDEXES & OTHER INFORMATION

Regulation Review Procedure **3010**
ARRS Report **3366**
Other Committee Reports ..... **NONE**
Locator Index - Effective Dates ..... **K – 2**
KRS Index ..... **K – 20**
Certifications ..... **K – 40**
Technical Amendments ..... **K – 57**
Subject Index ..... **K – 58**

EMERGENCIES

Motorcycle Safety Education Commission
500 KAR 015:010E. Motorcycle safety education program. 3011
Department of Medicaid Services
907 KAR 001:604E. Recipient cost-sharing..... 3015
Department for Community Based Services: Family Support
922 KAR 001:310E. Standards for child-placing agencies. 3019
922 KAR 001:350E. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers. 3033
922 KAR 001:495E. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet. 3042

AS AMENDED

Teachers' Retirement System: General Rules
102 KAR 001:163. Collection of life insurance benefits..... 3047
102 KAR 001:168. Survivor's benefits..... 3047
102 KAR 001:320. Qualified domestic relations orders..... 3048
Department of Military Affairs: Emergency Management
106 KAR 001:081. Kentucky Emergency Response Commission (KERC) Tier II reporting and fee schedule requirements; Extremely Hazardous Substance (EHS) facility planning participation requirements. 3050
106 KAR 001:091. Kentucky Emergency Response Commission (KERC) fee account grant requirements for Local Emergency Planning Committees (LEPCs). 3052
106 KAR 001:111. Kentucky Emergency Response Commission (KERC) fee account grant review committee. 3055
106 KAR 001:121. Kentucky Emergency Response Commission (KERC) fee account grant distribution formula. 3056
Board of Physical Therapy
201 KAR 022:020. Eligibility and credentialing procedure. 3057
Department of Fish and Wildlife Resources: Game
301 KAR 002:172. Deer hunting seasons, zones, and requirements. 3058
301 KAR 002:178. Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas. 3060
Department of Education
General Administration
702 KAR 001:160. School health services. 3066
Assessment and Accountability
703 KAR 005:270. Kentucky's accountability system..... 3068
Department of Insurance
Administration
806 KAR 002:092. Disclosure of local government taxes and collection fee. 3075
806 KAR 002:100. Disclosure of insurance premium surcharge. 3076
Kinds of Insurance; Limits of Risk; Reinsurance
806 KAR 005:011. Repeal of 806 KAR 005:010 and 806 KAR 005:020..... 3076
Horse Racing Commission
General
810 KAR 002:001. Definitions. 3076
810 KAR 002:010. Racing commission and administrative staff 3078
810 KAR 002:020. Thoroughbred and flat racing officials. 3079
810 KAR 002:030. Chemical dependency 3081

810 KAR 002:040. Stewards 3082
810 KAR 002:050. Judges and Standardbred racing officials 3084
810 KAR 002:060. Owners' authorized agents and jockey agents 3087
810 KAR 002:070. Thoroughbred and other flat racing associations 3088
810 KAR 002:080. Standardbred racing associations..... 3092
Licensing
810 KAR 003:001. Definitions 3095
810 KAR 003:010. Licensing of racing associations 3096
810 KAR 003:020. Licensing of racing participants..... 3098
810 KAR 003:030. Licensing totalizator companies..... 3104
810 KAR 003:040. Advance deposit account wagering 3106
810 KAR 003:050. Simulcast facilities..... 3110
Flat and Steeplechase Racing
810 KAR 004:001. Definitions 3111
810 KAR 004:010. Horses..... 3113
810 KAR 004:020. Weights 3115
810 KAR 004:030. Entries, subscriptions, and declarations..... 3116
810 KAR 004:040. Running of the race..... 3118
810 KAR 004:050. Claiming races 3120
810 KAR 004:060. Objections and complaints..... 3121
810 KAR 004:070. Jockeys and apprentices. 3122
810 KAR 004:080. Steeplechase racing 3123
810 KAR 004:090. Owners..... 3123
810 KAR 004:100. Trainers..... 3126
Standardbred Racing
810 KAR 005:001. Definitions 3129
810 KAR 005:010. Registration and identification of horses 3131
810 KAR 005:030. Claiming races 3131
810 KAR 005:040. Farm, corporate, or stable name..... 3133
810 KAR 005:050. Stakes and futurities 3134
810 KAR 005:060. Entries and starters..... 3135
810 KAR 005:070. Running of the race..... 3139
810 KAR 005:080. Harness racing and county fairs 3144
Pari-Mutuel Wagering
810 KAR 006:020. Calculation of payouts and distribution of pools 3145
Incentive and Development Funds
810 KAR 007:010. Backside improvement fund 3154
810 KAR 007:020. Kentucky thoroughbred breeders' incentive fund..... 3154
810 KAR 007:040. Kentucky Standardbred development fund and Kentucky Standardbred breeders' incentive fund..... 3158
810 KAR 007:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund 3161
810 KAR 007:070. Violations, discipline, disputes, and investigation 3164
Medication Guidelines
810 KAR 008:010. Medication; testing procedures; prohibited practices..... 3165
810 KAR 008:020. Drug, medication, and substance classification schedule and withdrawal guidelines..... 3170
810 KAR 008:030. Disciplinary measures and penalties .. 3171
810 KAR 008:040. Out-of-competition testing..... 3176
810 KAR 008:060. Post-race sampling and testing procedures..... 3180
Hearings and Appeals
810 KAR 009:010. Hearings, reviews and appeals..... 3181
Department for Public Health
902 KAR 019:010. Kentucky Birth Surveillance Registry .. 3182
Department of Medicaid Services
907 KAR 010:820. Disproportionate share hospital distributions..... 3184
Department for Community Based Services: Child Welfare
922 KAR 001:565. Service array for a relative or fictive kin caregiver..... 3187

AMENDED AFTER COMMENTS

Finance & Administration Cabinet: Facilities & Support Services
200 KAR 003:020. Use of State-Owned facilities and grounds..... 3190
Board of Education: Academic Standards
704 KAR 008:060. Required Academic Standards for Social Studies..... 3193
Department for Behavioral Health, Developmental and Intellectual Disabilities: Substance Abuse
908 KAR 001:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities 3195
908 KAR 001:372. Licensure of residential alcohol and other drug treatment entities..... 3215
908 KAR 001:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities 3222
Department for Community Based Services: Family Support
921 KAR 002:015. Supplemental programs for persons who are aged, blind, or have a disability. 3232

PROPOSED AMENDMENTS

Kentucky Higher Education Assistance Authority: Student & Administrative Services
011 KAR 005:145. CAP grant award determination procedure 3239
Education Professional Standards Board: Advanced Certification and Rank
016 KAR 008:030. Continuing education option for rank change..... 3240
Board of Dentistry
201 KAR 008:581. Charity dental practices ..... .3244
Board of Ophthalmic Dispensers
201 KAR 013:040. Licensing 3246
201 KAR 013:050. Apprentices 3249
201 KAR 013:055. Continuing education requirements .. 3251
201 KAR 013:060. Military service; reciprocity; endorsement 3253
Board of Chiropractic Examiners
201 KAR 021:041. Licensing; standards; fees 3254
201 KAR 021:042. Standards, application, and approval of continuing education 3256
Board of Physical Therapy
201 KAR 022:135. Fees. 3258
Kentucky Lottery Corporation
202 KAR 003:010. Code of ethics 3259
Department of Fish and Wildlife Resources: Game
301 KAR 002:030. Commercial guide license..... 3260
Department of Alcoholic Beverage Control: Retail Premises
804 KAR 007:020. Alcoholic beverage inventory during prohibited alcoholic beverage sales period 3262
Department of Insurance: Agents, Consultants, Solicitors, and Adjusters
806 KAR 009:001. Prelicensing courses of study 3264
806 KAR 009:020. False or deceptive names, titles, prohibited 3265
806 KAR 009:070. Examinations..... 3267
806 KAR 009:310. Life settlement licenses 3269
Public Service Commission: Utilities
807 KAR 005:056. Fuel adjustment clause..... 3272
Department of Housing, Buildings and Construction
815 KAR 007:120. Kentucky Building Code..... 3274
815 KAR 007:125. Kentucky Residential Code..... 3277
Department for Public Health
Epidemiology and Health Planning
902 KAR 002:070. Rabies control 3279
Public Health Protection and Safety
902 KAR 015:010. Manufactured and mobile homes 3281

Office of Inspector General
Health Services and Facilities
902 KAR 020:036. Operation and services; personal care homes 3286
Food and Cosmetics
902 KAR 045:065. Tattooing 3294
902 KAR 045:070. Body piercing and ear piercing. 3304
902 KAR 045:075. Tanning facilities 3314
Milk and Milk Products
902 KAR 050:110. Grade A milk and milk products standards and Grade A milk sanitation requirements..... 3316
Department of Medicaid Services
907 KAR 001:604 Recipient cost-sharing 3318
Department for Aging and Independent Living
910 KAR 002:020. Referral process for adult guardianship 3322
Department for Community Based Services: Family Support
922 KAR 001:310. Standards for child-placing agencies. 3326
922 KAR 001:350. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers. 3340
922 KAR 001:495. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet. 3350

NEW ADMINISTRATIVE REGULATION

Justice and Public Safety Cabinet: Asset Forfeiture
500 KAR 009:011. Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040. 3354
Motorcycle Safety Education Commission
500 KAR 015:010. Motorcycle safety education program. 3355
Department of Alcoholic Beverage Control: Retail Premises
804 KAR 007:031. Repeal of 804 KAR 007:030. 3360
Department of Insurance
Agents, Consultants, Solicitors, and Adjustors
806 KAR 009:061. Repeal of 806 KAR 009:060..... 3361
806 KAR 009:321. Repeal of 806 KAR 009:320..... 3362
Surplus Lines
806 KAR 010:051. Repeal of 806 KAR 010:050..... 3363
Office of Inspector General: Milk and Milk Products
902 KAR 050:101. Repeal of 902 KAR 050:100..... 3364

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Title		Chapter	Regulation
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Cabinet, Department, Board, or Agency		Office, Division, Board, or Major Function	Specific Regulation

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The following agenda may not take into consideration all of the administrative regulations that may be deferred by promulgating agencies. Deferrals may be made any time prior to or during the meeting. Updated agendas are available online at https://apps.legislature.ky.gov/CommitteeDocuments/3/

Administrative Regulation Review Subcommittee
Tentative Meeting Agenda
Tuesday, May 14, 2019, 1:00 PM
Annex Room 149

1. Call to Order and Roll Call

2. Regulations for Committee Review

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board
Administrative Certificates
016 KAR 003:011. Repeal of 016 KAR 003:010, 016 KAR 003:020, 016 KAR 003:040, and 016 KAR 003:050. (Deferred from April)
016 KAR 003:090. Certifications for advanced educational leaders. (Deferred from February)

STATE BOARD OF ELECTIONS
Forms and Procedures
31 KAR 004:120. Additional and emergency precinct officers. (Not Amended After Comments) (Deferred from April)

PERSONNEL CABINET
Personnel Cabinet, Classified
101 KAR 002:034. Classified compensation administrative regulations.
Personnel Cabinet, Unclassified
101 KAR 003:045. Compensation plan and pay incentives for unclassified service.

FINANCE AND ADMINISTRATION CABINET
Teachers' Retirement System
General Rules
102 KAR 001:060. Refunds. (Deferred from March)

Department for Facilities and Support Services
State-Owned Buildings and Grounds
200 KAR 003:020 & E. Use of State-Owned facilities and grounds. ("E" expires 08-03-2019) (Amended After Comments)

BOARDS AND COMMISSIONS
State Board of Accountancy
201 KAR 001:290. Standards of Practice. (Deferred from April)
201 KAR 001:300. Rules of professional conduct.
201 KAR 001:310. Expungement of minor violation. (Deferred from April)

Board of Social Work
201 KAR 023:150. Complaint procedure, disciplinary action, and reconsideration. (Deferred from December)

Board of Medical Imaging and Radiation Therapy
201 KAR 046:010. Definitions for 201 KAR Chapter 046.
201 KAR 046:020. Fees.
201 KAR 046:030. Education for medical imaging technologists, advanced imaging professionals, nuclear medicine technologists, radiographers, and radiation therapists.
201 KAR 046:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.
201 KAR 046:045. Temporary license application for medical imaging technologists, advanced imaging professionals, radiographers, nuclear medicine technologists, and radiation therapists.
201 KAR 046:081. Limited X-Ray machine operator.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Board of Emergency Medical Services
202 KAR 007:520. Allocation of block grant funding assistance for emergency medical services. (Deferred from April)
202 KAR 007:575. Posting of fee schedules of licensed ambulance providers. (Deferred from April)

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
Hunting and Fishing
301 KAR 003:091. Repeal of 301 KAR 003:090.

ENERGY AND ENVIRONMENT CABINET
Department for Natural Resources
Division of Mine Permits
Bond and Insurance Requirements
405 KAR 010: 001. Definitions for 405 KAR Chapter 010.
405 KAR 010:015. General bonding provisions.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
Office of Instruction
704 KAR 003:303. Required Academic Standards.
Academic Standards
704 KAR 008:060. Required Academic Standards for Social Studies. (Amended After Comments)

LABOR CABINET
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
Occupational Safety and Health
803 KAR 002:180. Recordkeeping, reporting, statistics.

Department of Workers' Claims
803 KAR 025:270 & E. Pharmaceutical formulary. ("E" expires 06-25-2019) (Amended After Comments) (Deferred from April)

ENERGY AND ENVIRONMENT CABINET
Department for Natural Resources
Division of Mine Safety
Mining Safety Standards
805 KAR 003:100. Equipment use and operation.

PUBLIC PROTECTION CABINET
Department of Insurance
Surplus Lines
806 KAR 010:030. Surplus lines reporting and tax payment structure. (Amended After Comments) (Deferred from March)
Insurance Fraud
806 KAR 047:010. Fraud prevention.
806 KAR 047:021. Repeal of 806 KAR 047:020 and 806 KAR 047:030.

LABOR CABINET
Department of Financial Institutions
Administration
808 KAR 001:180. Use of special restricted funds. (Deferred from February)

CABINET FOR HEALTH AND FAMILY SERVICES
Department of Medicaid Services
Division of Policy and Operations
Medicaid Services
907 KAR 001:330. Hospice services. (Deferred from April)
907 KAR 001:340. Reimbursement for hospice services. (Deferred from April)
907 KAR 001:441. Repeal of 907 KAR 001:436. (Deferred from April)

Office of Inspector General
Division of Program Integrity
907 KAR 005:005. Health Insurance Premium Payment (HIPP) Program. (Not Amended After Comments) (Deferred from April)

Department for Behavioral Health, Developmental and Intellectual Disabilities
Division of Behavioral Health
Substance Abuse
908 KAR 001:341. Repeal of 908 KAR 001:340. (Deferred from March)
908 KAR 001:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities. (Amended After Comments)
908 KAR 001:372. Licensure of residential alcohol and other drug treatment entities. (Amended After Comments)
908 KAR 001:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities. (Amended After Comments)

911 KAR 001:071. Repeal of 911 KAR 001:070 and 911 KAR 001:080. (Deferred from April)

Department for Community Based Services
Division of Family Support
K-TAP, Kentucky Works, Welfare to Work, State Supplementation
921 KAR 002:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. ("E" expires 07-27-2019) (Amended After Comments)

3. Regulations REMOVED from May's agenda

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
601 KAR 002:030 & E. Ignition interlock. ("E" expires 08-07-2019) (Not Amended After Comments) (Deferred from May)

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Healthcare
Health Services and Facilities
902 KAR 020:111. Medically managed intensive inpatient withdrawal management. (Comments Received; SOC ext., due 05-15-2019)

Office for Children with Special Health Care Needs
Aging Services
911 KAR 001:010. Application to office for children with special health care needs clinical programs. (Comments Received; SOC ext., due 05-15-2019)
911 KAR 001:020. Billing and fees. (Comments Received; SOC ext., due 05-15-2019)
911 KAR 001:060. Office for children with special health care needs medical staff. (Comments Received; SOC ext., due 05-15-2019)

Department of Medicaid Services
Division of Policy and Operations
Medicaid Services
907 KAR 001:022. Nursing facility services and intermediate care facility for individuals with an intellectual disability. (Comments Received; SOC ext. due 05-15-2019)
907 KAR 001:755. Preadmission Screening and Resident Review Program. (Comments Received; SOC ext. due 05-15-2019)

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
500 KAR 15:010E

This emergency administrative regulation establishes the requirements for the administration of the motorcycle safety education program outlined in KRS 15A.350. It is filed to address the risk to public safety associated with motorcycle operators not being trained in the proper and safe practices of motorcycle operation. It further puts in place a statutory change in the standards applicable to the program provided in KRS 15A.350. An ordinary administrative regulation cannot put the new statutory standard requirements into place before the start of the motorcycle riding season or address the public safety issue in a sufficiently quick manner. This emergency administrative regulation will be replaced by an ordinary administrative regulation that is being filed with the emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
JOHN C. TILLEY, Secretary

JUSTICE AND PUBLIC SAFETY CABINET
Motorcycle Safety Education Commission
(New Emergency Administrative Regulation)

500 KAR 15:010E. Motorcycle safety education program.

RELATES TO: KRS 15A.350 - 15A.366, 186.401, 186.450, 186.531, 186.535
STATUTORY AUTHORITY: KRS 15A.350, 15A.352, 15A.354, 15A.356
EFFECTIVE: April 5, 2019
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.356 authorizes the Secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations that are reasonable and necessary to carry out the provisions of 15A.350 to 15A.366. This administrative regulation establishes the criteria and procedures required for approval of instructors for motorcycle safety education training, instructor training course provider requirements and selection criteria, training course requirements, fees for enrollment in a motorcycle rider training course, and training provider requirements and selection criteria.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 15A.011(1).
(2) "Commission" means the Motorcycle Safety Education Commission established pursuant to KRS 15A.362.
(3) "Instructor" means a person recognized by the cabinet who conducts motorcycle rider training and may also be known as a rider coach.
(4) "Instructor training course" means a process recognized by the cabinet that prepares an individual to teach a motorcycle rider training course.
(5) "Instructor training course provider" means a person or entity recognized by the cabinet to conduct an instructor training course.
(6) "Instructor trainer" means a person approved by the cabinet to train instructors.
(7) "Program administrator" means the person designated or appointed by the secretary of the cabinet to administer the Motorcycle Safety Education Program.
(8) "Range" means a paved area approved for practicing motorcycle riding skills during a training course.
(9) "Training provider" means a person or entity approved by the cabinet to conduct a rider training course.

Section 2. Training, Approval, and Reporting Requirements of Instructors. (1) To request approval to be an instructor, an individual shall:
(a) Meet the requirements of KRS 15A.354;
(b) Have a current motorcycle endorsement on the individual's driver's license;
(c) Provide a certified copy of the applicant's driving record for the previous five (5) years in Kentucky or other state in which the applicant holds a driver's license;
(d) Not have been convicted of a felony sex offense in KRS Chapter 510;
(e) Be able to lift the motorcycle required to be used in the training of students;
(f) Be able to perform the motorcycle maneuvers required in the training to be provided;
(g) Complete the Instructor Application in full;
(h) Successfully complete a recognized instructor training course listed on the Motorcycle Safety Education Commission website at https://justice.ky.gov/pages/motorcycle-safety-education.aspx;
(i) Provide a diploma, certificate of completion, or other similar documentation from the instructor training course to verify completion of one (1) of the recognized training courses;
(j) Have ridden a motorcycle for at least 1,000 miles within the previous twelve (12) months; and
(k) Submit the application with all other required documents to the program administrator by mailing to Motorcycle Safety Education Commission, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601.
(2) If an instructor is currently approved and requests to be requalified as an instructor for another year, the instructor shall:
(a) Not have had his driver's license suspended or revoked at any time during the preceding two (2) years or at any time within the preceding five (5) years for any alcohol or drug related offense; and
(b) Provide proof of teaching a minimum of two (2) motorcycle safety courses in the previous year; or
(c) Provide proof of teaching one (1) motorcycle safety course in the previous year; and
(d) Successfully complete in the previous year an approved instructor training course listed on the Motorcycle Safety Education Commission website; or
(e) Successfully complete in the previous year a teaching skills course provided by the cabinet or its designee.
(3) Instructor application review and processing.
(a) After review of the application:
1. If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or
2. If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.
(b) Instructor Application Approval or Denial
1. If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:
a. Approval as an instructor if all of the requirements in this administrative regulation have been met in the application and the required documentation received; or
b. Denial of approval as an instructor if all of the requirements have not been met in the application.
2. Approval for an instructor shall be valid for (1) year from the date of the approval notice.
(4) Instructor Required Notices. The instructor shall provide written notice with specific details concerning the matter to the program administrator:
(a) If the instructor's driver's license is suspended or revoked;
(b) If the instructor is convicted of a felony sex offense in KRS Chapter 510;
(c) Of teaching one (1) or two (2) motorcycle safety courses each year; and
(d) Any change in contact information.

Section 3. Instructor Training Course Provider Responsibilities. (1) An instructor training course provider shall:
(a) Provide training facilities and equipment required by the approved curriculum;

(b) Provide all course materials including handouts, books, and other items required by the approved curriculum to each participant;

(c) Obtain and maintain all certifications required to teach and certify new instructors within the curriculum being taught;

(d) Coordinate with existing instructor training course providers to deliver training sessions in a specific region based on need and available instructors or candidates;

(e) Report the following participant and course data to the program administrator;

1. Completion status of participants;

2. Contact information of participants; and

3. Instructor certification numbers, if available;

(f) Allow quality assurance inspections of its training courses at the request of the program administrator; and

(g) Conduct quality assurance visits at the request of the program administrator.

(2) Instructor Training Course Provider Required Notices. The instructor training course provider shall notify the program administrator:

(a) If the instructor training course provider or its instructor trainer has lost certification from the appropriate curriculum governing body;

(b) If the instructor training course provider or its instructor trainer has lost his or her driver's license due to suspension or revocation;

(c) If the instructor training course provider or its instructor trainer is convicted of a felony sex offense in KRS Chapter 510; and

(d) Any change in contact information.

Section 4. Training Provider Responsibilities. (1) A training provider shall:

(a) Follow a curriculum in compliance with the Model National Standards for Entry-Level Motorcycle Rider Training published by the National Highway Traffic Safety Administration and recognized by the commission as described in Section 9(4) of this administrative regulation;

(b) Ensure a sufficient number of courses and instructors are available to meet demand in the local geographic area;

(c) Schedule classes and instructors as needed;

(d) Provide a schedule of classes to the program administrator and any schedule updates throughout the training season;

(e) Register students and take payment using the cabinet website or, if the website is unavailable, remit student tuition payments to the program administrator made payable to the Kentucky State Treasurer;

(f) Not use participant data, such as contact information, for any purpose outside of the provision of the rider education course;

(g) Keep all participant information confidential and not share with any third parties without prior approval from the cabinet;

(h) Obtain and maintain a training range, motorcycles, safety equipment, classroom, and other course equipment according to Sections 6 through 8 of this administrative regulation;

(i) Provide classroom materials such as books, handouts, videos, and other items as needed for completion of the course;

(j) Have access to a computer or other appropriate device with internet capability and printer for student and course management and printing course completion certificates;

(k) Supervise and monitor adherence of instructors to course curriculum and course delivery;

(l) Solicit student feedback and distribute course evaluations;

(m) Forward student feedback to the cabinet upon request;

(n) Maintain the following insurance:

1. General liability insurance in an amount not less than $1,000,000 underwritten by an insurance carrier licensed and approved by the Kentucky Department of Insurance, which shall include personal injury insurance for students and instructors;

2. Any insurance, including workers compensation and unemployment insurance, required by federal, state, or local law.

(o) Submit student information in a manner prescribed by the cabinet for the purpose of reimbursement of services;

(p) Issue a course completion certificate as described in Section 9(5) of this administrative regulation to a student who has successfully completed the course; and

(q) Establish and implement policies and procedures for delivery of instruction and maintenance of site location and equipment. The training provider shall submit its policies and procedures regarding maintenance of site locations and equipment for written approval or denial to the program administrator before it or any part of it becomes effective and enforceable.

(2) Training Provider Required Notices. The training provider shall notify the program administrator:

(a) If the training provider's range is no longer available or has lost certification from the appropriate curriculum governing body;

(b) Of loss or change in required insurance;

(c) If the training provider cannot deliver services due to availability of instructors or equipment;

(d) Of any accidents involving bodily injury that occur during course instruction;

(e) Of proposed changes to policy and procedures regarding maintenance of equipment or delivery of instruction prior to implementation.

(f) Of any breach involving student data within seven (7) days of discovery of the breach; and

(g) Of any change in contact information.

Section 5. Student-Instructor Ratio. The instructor to student ratio shall not exceed the following:

(1) An instructor shall not teach more than thirty-six (36) students during classroom instruction;

(2) An instructor shall not teach more than eight (8) students during range instruction if teaching alone; and

(3) Two instructors shall not teach more than twelve (12) students during range instruction.

Section 6. Training Course Range Requirements. (1) A range shall include fifty-six (56) linear feet per student at the perimeter dimension and a minimum of twenty (20) feet paved run-off area on each side.

(2) A range shall be approved by the governing body of the recognized curriculum prior to use.

(3) Student range capacity shall be the total linear feet of the perimeter divided by fifty-six (56) and rounded down.

(4) A standard range shall be 120 feet by 220 feet with a minimum paved run-off area of twenty (20) feet on each side.

(5) A modified range may be used if it meets the requirements in (1) through (3) of this section.

Section 7. Training Motorcycles. (1) A training motorcycle shall be a 500cc motorcycle or smaller;

(2) One motorcycle shall be available for each student participating in the range session;

(3) A motorcycle shall be intended by the manufacturer for street use, but may have:

(a) The headlight disabled for use on the range; or

(b) A speed or RPM limiting device installed; and

(4) A motorcycle used in the training course shall be maintained in safe operating condition according to the manufacturer's specifications.

Section 8. Training Course Range Equipment. (1) Protective Equipment. A rider shall wear the following protective equipment during range instruction:

(a) A full face or three-quarter helmet certified by its manufacturer to meet US DOT Federal Motor Vehicle Safety Standard No. 218 in good condition;

(b) A face shield, goggles, or glasses;

(c) Leather or other abrasion-resistant, full-fingered gloves;

(d) A weather appropriate, long-sleeved shirt or jacket that fully covers the arms;

(e) Long pants that fully cover the legs; and

(f) Boots or other sturdy, over-the-ankle footwear.

(2) Safety equipment. A range shall have and maintain the following equipment in close proximity to the riding area during range instruction:

(a) Class A fire extinguisher;

(b) First aid kit; and

(c) An appropriate number of cones or other markers for the outline of riding exercises.

Section 9. Rider Training Courses for Novice Riders. (1) A rider training course for novice riders shall:

(a) Meet the requirements of KRS 15A.352(2);

(b) Meet or exceed the Model National Standards for Entry-Level Motorcycle Rider Training published by the National Highway Traffic Safety Administration;

(c) Follow a curriculum recognized by the commission as described in subsection 4 of this section;

(d) Not be less than eight (8) hours of hands-on instruction for a novice course;

(e) Be provided by instructors approved by the cabinet; and

(f) Meet the training course requirements in this administrative regulation.

(2) Course materials shall include the Kentucky Motorcycle Manual maintained by the Kentucky State Police and a diagram of the motorcycle with basic parts for driving identified. Materials may also include those specific to the curriculum being taught and required by the governing body of the curriculum.

(3) Student evaluation shall include a:

(a) Written exam that addresses:

1. Current traffic laws with a focus on motorcycles; and

2. Best practices of motorcycle operation; and

(b) A skills test that demonstrates safe operation of the motorcycle in numerous situations.

(4) Training courses for novice riders recognized by the cabinet shall be listed on the Motorcycle Safety Education Commission Web site.

(5) Certificate of Completion

(a) Upon successful completion of a course that meets the requirements in this section of this administrative regulation and is included on the list of training courses for novice riders recognized by the cabinet, the student shall be issued a certificate of completion in physical or electronic format that shall include:

1. Date of course completion;

2. Provider of course taken;

3. Curriculum used in course; and

4. Certificate number.

(b) The student shall present this certificate to the Circuit Clerk in his county of residence to be used for an exemption of the skills portion of the motorcycle endorsement testing.

Section 10. Students. (1) Enrollment and Registration Requirements. A student shall:

(a) Have a valid Kentucky driver's license or Kentucky motor vehicle instructional permit;

(b) Complete and sign a liability waiver form. A student under the age of eighteen (18) shall have a liability waiver from his or her parent or legal guardian, signed on-site or notarized, authorizing the student to take the course;

(c) Complete the registration process; and

(d) Pay any required fee.

(2) Course Completion. A student shall:

(a) Attend, participate in, and complete all required training sessions; and

(b) Achieve passing scores on required tests.

(c) Upon successful completion of the program, receive a course completion certificate as prescribed in this administration regulation.

Section 11. Approval of Courses for Exemption from the Licensing Skill Test. (1) In order for a course to be approved for exemption from the licensing skill test pursuant to KRS 15A.352, a course shall:

(a) Meet the curriculum standards of and receive any approvals required by the Motorcycle Safety Foundation for motorcycle rider education or instructor training, but shall not include an online course without hands on training on a motorcycle;

(b) Meet the curriculum standards of and receive any approvals required by Total Control Training, Inc. for motorcycle rider education;

(c) Be a rider education training course administered by an approved training provider in another state which is recognized for exemption from the motorcycle licensing skill test in that state; or

(d) Be submitted to and approved by the commission for inclusion on the list.

(2) The courses approved for exemption by the commission shall be published on the commission's website.

Section 12. Data and Reporting. (1) All reports shall be submitted electronically to the cabinet through the commission's website. If the program website is unavailable, reports shall be sent by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601.

(2) A training provider shall report to the program administrator:

(a) Course schedules and updates;

(b) Student attendance;

(c) Student contact information;

(d) Student driver's or permit license information;

(e) Course completion date;

(f) Whether student passed or failed course;

(g) Skills waiver card number if issued;

(h) Student feedback evaluations when requested; and

(j) Evaluations of instructors and the instructor training course provider.

(3) An instructor training course provider shall report to the program administrator:

(a) Student attendance;

(b) Results and recommendations for instructor candidates upon completion of training; and

(c) Results of quality assurance visits for both instructors and training providers.

Section 13. Quality Assurance. (1) An instructor shall:

(a) Maintain all appropriate certifications required by the governing body of the recognized curriculum; and

(b) Participate in all required professional development activities as prescribed by the governing body of the recognized curriculum or cabinet.

(2) Instructor training course providers shall:

(a) Conduct periodic audits and provide feedback to instructors for the purpose of professional development at the request of the program administrator; and

(b) Maintain all appropriate certifications required by the governing body of the recognized curriculum.

(3) Portions of student evaluation form results may be made available for professional development to the following:

(a) Instructors;

(b) Instructor training course providers; and

(c) Training providers.

(4) The cabinet program administrator or designee may conduct audits as needed to review quality of instruction, range condition, equipment condition, and compliance with financial and other reporting requirements.

Section 14. Fees. (1) A fee shall not be required for an individual who is:

(a) At least sixteen (16) years of age;

(b) Less than eighteen (18) years of age;

(c) A Kentucky resident; and

(d) Has a valid motor vehicle instructional permit or driver's license.

(2) A fee not to exceed $150 may be required for an individual who is:

(a) At least eighteen (18) years of age;

(b) A Kentucky resident; and

(c) Eligible for a motor vehicle instruction permit.

(3) Any fee shall be paid upon registration and shall not be refundable.

(4) Any fee shall be paid by check or money order made payable to the Kentucky State Treasurer or other means established through the Justice and Public Safety Cabinet website.

Section 15. Training Provider Selection Criteria. (1) To request to be a training provider, the applicant shall:

(a) Complete the Training Provider Application in full;

(b) Submit evidence showing the person or entity has the ability meet the required responsibilities as prescribed in this administrative regulation. This shall include:

1. Description of expertise in offering this or similar type of program;

2. Range approval certification or application for certification;

3. Schedule of range availability or proposed course schedule;

4. List of training motorcycles including VIN number or plan to acquire them;

5. Maintenance records of owned motorcycles, if available;

6. Copies of policies or quotes to obtain required insurance;

7. Business plan showing anticipated costs and revenues to determine viability; and

8. Policy and procedures manual for course delivery, site, and equipment maintenance.

(c) Submit the application with all other required documents to the program administrator by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601.

(2) Application review and processing.

(a) After review of the application:

1. If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or

2. If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.

(b) Application approval or denial.

1. If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:

a. Approval as a training provider if all of the requirements have been met in the application and send a certificate of approval. A contract between the cabinet and training provider shall also be sent for the training provider to sign and return to the cabinet within thirty (30) days of receipt; or

b. Denial of approval as a training provider if all of the requirements have not been met in the application.

2. Approval for a training provider shall be valid for two (2) years from the date of the approval notice.

Section 16. Instructor Training Course Provider Selection Criteria. (1) To request to be an instructor training course provider, the person or entity shall:

(a) Complete the instructor training course provider application in full;

(b) Provide a diploma, certificate of completion, or other similar documentation from the instructor training course to verify completion of one (1) of the approved training courses for each instructor trainer;

(c) Submit evidence showing the person or entity has the ability meet the required responsibilities and course requirements in this administrative regulation. This shall include:

1. Description of expertise in offering this or similar type of program;

2. Copies of policies or quotes to obtain all required insurance;

3. Business plan showing anticipated costs and revenues to determine viability;

4. Policy and procedure manual or plan for new instructor training, quality assurance, and existing instructor professional development; and

5. Cost schedule for each type of class including number of participants, if applicable, and quality assurance visits.

(d) Submit the application with all other required documents to the program administrator by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601.

(2) Application review and processing. After review of the application:

(a) If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or

(b) If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.

(3) Application approval or denial:

(a) If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:

(b) Approval as an instructor training course provider if all of the requirements have been met in the application and send a certificate of approval. A contract between the cabinet and instructor training course provider shall also be sent for the instructor training course provider to sign and return to the cabinet within thirty (30) days of receipt; or

(c) Denial of approval as a trainer if all of the requirements have not been met in the application.

(4) Approval for instructor training course provider shall be valid for two (2) years from the date of the approval notice.

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

(a) "Model National Standards for Entry-Level Motorcycle Rider Training", NHTSA, DOT HS 811 503, August 2011.

(b) "Model National Administrative Standards for State Motorcycle Rider Training Programs" NHTSA, November 2014, Report No. DOT HS 812 071.

(c) "Training Instructor Application", Motorcycle Safety Education Program, 2019.

(d) "Instructor Training Course Provider Application", Motorcycle Safety Education Program, 2019.

(e) "Training Provider Application", Motorcycle Safety Education Program, 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Motorcycle Safety Education Program, Office of the Secretary, 125 Holmes Street, Frankfort, Kentucky 40601 phone (502) 564-7554, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. The applications may also be obtained from the Motorcycle Safety Education Commission website at https://justice.ky.gov/Pages/Motorcycle-Safety-Education.aspx. The standards may also be obtained from the U.S. Department of Transportation, National Highway Traffic Safety Administration website in the Motorcycle Safety area at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/811503.pdf and https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812071-modelnatladmin motorcycle.pdf.

This is to certify that the Motorcycle Safety Education Commission approved this administrative regulation prior to its filing by the Justice and Public Safety Cabinet with the Legislative Research Commission as required by KRS 13A.120(3), 13A.220(6)(a), and 15A.364(1) as reflected by the signature below.

JOHN C. TILLEY, Secretary
STEVE HANLON, Chairperson

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 5, 2019 at 3 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.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: It establishes the Motorcycle Safety Education Program requirements.

(b) The necessity of this administrative regulation: This regulation is required by KRS 15A.350.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It establishes the Motorcycle Safety

Education Program requirements from KRS 15A.350, 15A.352, 15A.354, and 15A.356.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets forth the details of the Motorcycle Safety Education Program including the requirements for instructor approval, training provider approval, and training course requirements.

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

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Justice and Public Safety Cabinet, the Motorcycle Safety Education Commission, the Transportation Cabinet, Circuit Court Clerks, Kentucky State Police, approximately 150,000 motorcycle riders, approximately 75 instructors, approximately 10 training providers, and approximately 5 training instructor course providers

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Application will have to be made to be an instructor, training provider, or instructor training course provider. Each will have to comply with the course and training requirements. The cabinet will have to comply with the regulation in reviewing applications.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): A motorcycle rider who becomes a student of the program may incur a tuition fee of up to $150. An instructor will need to provide a periodic background check at a cost of $5. The costs to a training provider will vary depending on the level of insurance, amount and type of equipment they choose to purchase when providing the service. Training instructor course providers' costs may also vary due to the level if insurance they choose to purchase and type of equipment. There are no direct costs to the Transportation Cabinet, Circuit Clerks, and Kentucky State Police. The costs to the Justice and Public Safety Cabinet relates to the number of man hours needed to process applications and invoices and insure compliance with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Motorcycle riders will receive an education in safe riding skills as well as potential insurance discounts. Instructors are paid for each class they teach which varies based on the type and length of the class. A training provider may be compensated at a rate of $200 per student from the Motorcycle Safety Education Fund. Instructor training course providers are compensated based on the type of training, travel, or other services provided from the Motorcycle Safety Education Fund. The benefit to all is in safer roadways.

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

(a) Initially: Approximately $100,000 in order to process all applications and contracts under this regulation.

(b) On a continuing basis: Normal operation of the program is expected to be approximately $750,000 per fiscal year, but can fluctuate depending on the number of riders trained. This includes the pay outs to the providers and trainers for their services, as well as the administrative functions handled at the Justice and Public Safety Cabinet.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Motorcycle Safety Education Fund established in KRS 15A.358

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation establishes the fee that may be charged to adult participants in the training program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. The administrative regulation establishes the fee that may be charged to adult participants in the training program.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Justice and Public Safety Cabinet, the Motorcycle Safety Education Commission, the Transportation Cabinet, Circuit Court Clerks, Kentucky State Police

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.350, 15A.352, 15A.354, 15A.356

(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 fee established in this administrative regulation is estimated to be approximately $350,000, but is paid to the training provider for the training that is provided. The funding for this program is codified in KRS 186.050 and 186.531.

(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 fee established in this administrative regulation is estimated to be approximately $500,000, but is paid to the training provider for the training that is provided. The funding for this program is codified in KRS 186.050 and 186.531.

(c) How much will it cost to administer this program for the first year? It is estimated to cost approximately $500,000 the first year including payments to the site providers, trainers and administrative costs. This will vary based on the number of students and providers across the state.

(d) How much will it cost to administer this program for subsequent years? It is estimated to cost approximately $750,000 per year, but will vary depending on the number of students and site providers within the state.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
907 KAR 1:604E

This emergency administrative regulation is being promulgated to implement copayment requirements and to clarify how copayments should be charged for certain types of health care encounters. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to prevent a loss of federal and state funds. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. This emergency administrative regulation has the same number as an administrative regulation filed within the previous nine (9) months. This administrative regulation differs from the administrative

regulation filed within the previous nine (9) months by amending a table that addresses copayments. The amendment was necessary to remove a phrase that implied that KCHIP beneficiaries could be subject to a copayment at a pharmacy. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
ADAM M. MEIER, Secretary

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

907 KAR 1:604E. Recipient cost-sharing.

RELATES TO: KRS 205.560, 205.6312, 205.6485, 205.8451, 319A.010, 327.010, 334A.020, 42 C.F.R. 430.10, 431.51, 447.15, 447.20, 447.21, 447.50, 447.52, [~~447.53,~~] 447.54, 447.55, 447.56, 447.57[~~447.59~~], 457.224, 457.310, 457.505, 457.510, 457.515, 457.520, 457.530, 457.535, 457.570, 42 U.S.C. 1396a, 1396b, 1396c, 1396d, 1396o, 1396r-6, 1396r-8, 1396u-1, 1397aa -1397jj, 2014 Ky. Acts ch. 117, Part I.G.3.b.(10)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6312(5), 205.6485(1), 42 C.F.R. 431.51, 447.15, 447.50-447.90[~~447.82~~], 457.535, 457.560, 42 U.S.C. 1396r-6(b)(5)

EFFECTIVE: March 15, 2019

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 205.6312(5) requires the cabinet to promulgate administrative regulations that implement copayments for Medicaid recipients. This administrative regulation establishes the provisions relating to Medicaid Program copayments.

Section 1. Definitions. (1) "Community spouse" means the individual who is married to an institutionalized spouse and who:

(a) Remains at home in the community; and

(b) Is not:

1. Living in a medical institution;

2. Living in a nursing facility; or

3. Participating in a 1915(c) home and community based services waiver program.

(2) "Copayment" means a dollar amount representing the portion of the cost of a Medicaid benefit that a recipient is required to pay.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Dependent child" means a[~~couple's~~] child, including a child gained through adoption, who:

(a) Lives with the community spouse; and

(b) Is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(5) "DMEPOS" means durable medical equipment, prosthetics, orthotics, and supplies.

(6) "Drug" means a covered drug provided in accordance with 907 KAR 23:010 for which the Department for Medicaid Services provides reimbursement.

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

(8) "Federal Poverty Level" or "FPL" means guidelines that are updated annually in the Federal Register by the United States Department of Health and Human Services under authority of 42 U.S.C. 9902(2).

(9) "KCHIP" means the Kentucky Children's Health Insurance Program.

(10) "KCHIP - Separate Program" means a health benefit program for individuals with eligibility determined in accordance with 907 KAR 4:030, Section 2.

(11) "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(12) "Medicaid Works individual" means an individual who:

(a) But for earning in excess of the income limit established under 42 U.S.C. 1396d(q)(2)(B) would be considered to be receiving supplemental security income;

(b) Is at least sixteen (16), but less than sixty-five (65), years of age;

(c) Is engaged in active employment verifiable with:

1. Paycheck stubs;

2. Tax returns;

3. 1099 forms; or

4. Proof of quarterly estimated tax;

(d) Meets the income standards established in 907 KAR 20:020; and

(e) Meets the resource standards established in 907 KAR 20:025.

(13) "Nonemergency" means a condition which does not require an emergency service pursuant to 42 C.F.R. 447.54[~~447.53~~].

(14) "Nonpreferred brand name drug" means a brand name drug that is not on the department's preferred drug list.

(15) "Preferred brand name drug" means a brand name drug:

(a) For which no generic equivalent exists which has a more favorable cost to the department; and

(b) Which prescribers are encouraged to prescribe, if medically appropriate.

(16) "Preventive service" means:

(a)1. All of the preventive services assigned a grade of A or B by the United States Preventive Services Task Force (USPSTF); or

2. All approved adult vaccines, including their administration, recommended by the Advisory Committee on Immunization Practices;

(b) Preventive care and screening for infants, children, and adults recommended by the Health Resources and Services Administration Bright Futures Program Project; or

(c) Preventive services for women recommended by the Institute of Medicine.

(17) "Recipient" is defined in KRS 205.8451(9).

(18) "Transitional medical assistance" or "TMA" means an extension of Medicaid benefits in accordance with 907 KAR 20:005, Section 5(5).

Section 2. Copayments. (1) The following table shall establish the:

(a) Copayment amounts that a recipient shall pay, unless the recipient is exempt from cost sharing pursuant to Section 3(1) of this administrative regulation; and

(b) Corresponding provider reimbursement deductions.

Benefit	Copayment Amount
Acute inpatient hospital admission	$50
Outpatient hospital or ambulatory surgical center visit	$4
[~~Generic prescription drug~~]	[~~$1~~]
[~~Preferred brand name drug~~]	[~~$4~~]
[~~Nonpreferred brand name drug~~]	[~~$8~~]
Emergency room for a nonemergency visit	$8
DMEPOS	$4
Podiatry office visit	$3
Chiropractic office visit	$3
Dental office visit	$3
Optometry office visit	$3
General ophthalmological office visit	$3
Physician office visit	$3
Office visit for care by a physician assistant, an advanced practice registered nurse, a certified pediatric and family nurse practitioner, or a nurse midwife	$3
Office visit for behavioral health care	$3
Office visit to a rural health clinic	$3

Office visit to a federally qualified health center or a federally qualified health center look-alike	$3
Office visit to a primary care center	$3
Physical therapy office visit	$3
Occupational therapy office visit	$3
Speech-language pathology services office visit	$3
Laboratory, diagnostic, or radiological service	$3
A Medicaid or KCHIP beneficiary who is younger than nineteen (19) years of age.	$0
Brand name drug	$4
Generic drug	$1
Brand name drug preferred over generic drug	$1
Pharmacy product class: certain antipsychotic drug	$1
Pharmacy product class: contraceptives for family planning	$0
Pharmacy product class: tobacco cessation	$0
Pharmacy product class: diabetes supplies, blood glucose meters	$0
Pharmacy product class: Diabetes supplies, all other covered diabetic supplies	$4 for first fill, $0 for second fill and beyond, per day
Pharmacy patient attribute: pregnant	$0
Pharmacy patient attribute: long-term care resident	$0
Pharmacy patient attribute: under eighteen (18) years of age.	$0
KI-HIPP participant	$0
Kentucky HEALTH: Medically Frail	$0
Kentucky HEALTH: Former Foster Care Youth up to 26 years of age	$0
Kentucky HEALTH: enrollee current on premiums	$0

(2) The full amount of the copayment established in the table in subsection (1) of this section shall be deducted from the provider reimbursement.

(3) The maximum amount of cost-sharing shall not exceed five (5) percent of a family's income for a quarter.

Section 3. Copayment General Provisions and Exemptions. (1) A Medicaid or KCHIP beneficiary who is younger than nineteen (19) years of age shall be exempt from the copayment or cost-sharing requirements established pursuant to this administrative regulation.

(2)(a)[~~(a) Except for a foster care child, a recipient shall not be exempt from paying the eight (8) dollar copayment for a nonpreferred brand name drug prescription.~~

~~(b)~~] A copayment shall not be imposed for a service, prescription, item, supply, equipment, or any type of Medicaid benefit provided to a foster care child.

(b)[~~(c) Except for the mandatory copayment referenced in paragraph (a) of this subsection,~~] The department shall impose no cost sharing for an individual or recipient who is exempt pursuant to 42 C.F.R. 447.56.[~~the following:~~

~~1. A service furnished to an individual who has reached his or her 18th birthday, but has not turned nineteen (19), and who is required to be provided medical assistance under 42 U.S.C. 1396a(a)(10)(A)(i)(I), including services furnished to an individual with respect to whom aid or assistance is made available under Title IV, Part B (42 U.S.C. 620 to 629i) to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under Title IV, Part E (42 U.S.C. 670 to 679b), without regard to age;~~

~~2. A preventive service;~~

~~3. A service furnished to a pregnant woman;~~

~~4. A service furnished to a terminally ill individual who is receiving hospice care as defined in 42 U.S.C. 1396d(o);~~

~~5. A service furnished to an individual who is an inpatient in a hospital, nursing facility, intermediate care facility for individuals with an intellectual disability, or other medical institution, if the individual is required, as a condition of receiving services in the institution under Kentucky's Medicaid Program, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs;~~

~~6. An emergency service as defined by 42 C.F.R. 447.53;~~

~~7. A family planning service or supply as described in 42 U.S.C. 1396d (a)(4)(C); or~~

~~8. A service furnished to a woman who is receiving medical assistance via the application of 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII) and 1396a(aa).~~

~~(2) The department has determined that any individual liable for a copayment shall:~~

~~(a) Be able to pay a required copayment; and~~

~~(b) Be responsible for a required copayment.~~]

(3) A pharmacy provider or supplier, including a pharmaceutical manufacturer as defined in 42 U.S.C. 1396r-8(k)(5), or a representative, employee, independent contractor or agent of a pharmaceutical manufacturer, shall not make a copayment for a recipient.

(4) A parent or guardian shall be responsible for a copayment imposed on a dependent child under the age of twenty-one (21).

(5) Any amount of uncollected copayment by a provider from a recipient shall be considered a debt to the provider.

(6)[~~(a)~~] A provider shall:

(a)[~~1.~~] Collect from a recipient the copayment as imposed by the department for a recipient in accordance with this administrative regulation;

(b)[~~2.~~] Not waive a copayment obligation as imposed by the department for a recipient; and

(c)[~~3.~~] Collect a copayment at the time a benefit is provided or at a later date.[~~(b) Regarding a service or item for an enrollee in which the managed care organization in which the enrollee is enrolled does not impose a copayment, the provider shall not collect a copayment from the enrollee.~~]

(7) Cumulative cost sharing for copayments for a family with children who receive benefits under Title XXI, 42 U.S.C. 1397aa to 1397jj, shall be limited to five (5) percent of the annual family income.

(8) In accordance with 42 C.F.R. 447.15 and 447.20[~~447.82~~], the department shall not increase its reimbursement to a provider to offset an uncollected copayment from a recipient.

Section 4. Premiums for Medicaid Works Individuals. (1)(a) A Medicaid Works individual shall pay a monthly premium that is:

1. Based on income used to determine eligibility for the program; and

2. Established in subsection (2) of this section.

(b) The monthly premium shall be:

1. Thirty-five (35) dollars for an individual whose income is greater than 100 percent but no more than 150 percent of the FPL;

2. Forty-five (45) dollars for an individual whose income is greater than 150 percent but no more than 200 percent of the FPL; and

3. Fifty-five (55) dollars for an individual whose income is greater than 200 percent but no more than 250 percent of the FPL.

(2) An individual whose family income is equal to or below 100 percent of the FPL shall not be required to pay a monthly premium.

(3) A Medicaid Works individual shall begin paying a premium with the first full month of benefits after the month of application.

(4) Benefits shall be effective with the date of application if the premium specified in subsection (1) of this section has been paid.

(5) Retroactive eligibility pursuant to 907 KAR 20:010, Section 1(3), shall not apply to a Medicaid Works individual.

(6) If a recipient fails to make two (2) consecutive premium payments, benefits shall be discontinued at the end of the first benefit month for which the premium has not been paid.

(7) A Medicaid Works individual shall be eligible for reenrollment upon payment of the missed premium providing all

other technical eligibility, income, and resource standards continue to be met.

(8) If twelve (12) months have elapsed since a missed premium, a Medicaid Works individual shall not be required to pay the missed premium before reenrolling.

Section 5. Provisions for Enrollees. A managed care organization shall[~~:~~

~~(1) Shall~~] not impose a copayment on an enrollee that exceeds a copayment established in this administrative regulation[~~; and~~

~~(2) May impose on an enrollee:~~

~~(a) A lower copayment than established in this administrative regulation; or~~

~~(b) No copayment~~].

Section 6. Freedom of Choice. (1) In accordance with 42 C.F.R. 431.51, a recipient who is not an enrollee may obtain services from any qualified provider who is willing to provide services to that particular recipient.

(2) A managed care organization may restrict an enrollee's choice of providers to the providers in the provider network of the managed care organization in which the enrollee is enrolled except as established in:

(a) 42 C.F.R. 438.52; or

(b) 42 C.F.R. 438.114(c).

Section 7. Appeal Rights. An appeal of a department decision regarding the Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

Section 8. Applicability of Title 895 KAR. If eligible for Kentucky HEALTH, an individual subject to this administrative regulation shall also comply with any applicable requirements established pursuant to Title 895 KAR, including 895 KAR 1:010[~~Effective Date. The cost sharing provisions and requirements established in this administrative regulation shall be effective beginning January 1, 2014~~].

Section 9. Federal Approval and Federal Financial Participation. The department's copayment provisions and any coverage of services established in this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation; and

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

Section 10. This administrative regulation was found deficient by the Administrative Regulation Review Subcommittee on May 13, 2014.

CAROL H. STECKEL, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March 15, 2019 at 3 p.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the cost sharing requirements and provisions for the Kentucky Medicaid program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the cost sharing requirements and provisions for the Kentucky Medicaid program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the cost sharing requirements and provisions for the Kentucky Medicaid program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the cost sharing requirements and provisions for the Kentucky Medicaid program.

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

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation synchronize co-pay exemptions with federal regulations, include additional co-pays and categories of co-pays, and prohibit MCOs from waiving or reducing Medicaid copays. The amendments also exempt Medicaid and KCHIP beneficiaries from paying copayments, and update the amount and types of copayments required for beneficiaries to pay. The amendments exempt various types of Kentucky HEALTH beneficiaries, including the medically frail, pregnant women, former foster youth, and individuals who are current on Kentucky HEALTH premiums.

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation are necessary to clarify Medicaid policy relating to copayments and to clarify how certain co-pays should be charged for certain types of visits at certain types of providers.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing a copayment requirement, synchronizing co-payment exemptions with the federal regulations, and updating certain copayments.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by instituting a clear policy on the use of copayments and updating certain copayments.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All Medicaid recipients who are not exempt from cost sharing will be affected by the amendment as well as Medicaid providers for whose services cost sharing is applied.

(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. Enrollees and recipients will be required to remit a copayment when accessing a Medicaid service and that requirement cannot be waived or reduced by an MCO. Providers of services for which cost sharing is imposed will be required to impose cost sharing when providing the given service and recipients are responsible for paying cost sharing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). Enrollees and recipients will have to pay copayments as listed in this administrative regulation. Providers may experience administrative costs resulting from a Medicaid recipient refusing to pay a copayment obligation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Enrollees and recipients will be able to fully access Medicaid benefits, and providers will be able to charge for services provided.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

(b) On a continuing basis: The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds

authorized under Title XIX of the Social Security Act and matching funds from general fund appropriations.

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

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

(9) Tiering: Is tiering applied? Tiering is applied in that some Medicaid recipients are exempt (by federal regulation or law) from most cost sharing obligations.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(14), 42 U.S.C. 1396o, 42 C.F.R. 447.50 through 447.90, 42 C.F.R. 447.15 and 447.20, and 42 C.F.R. 438.108

2. State compliance standards. KRS 205.520(3) and KRS 194A.050(1).

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(14) authorizes a state's Medicaid program to impose cost sharing only as allowed by 42 U.S.C. 1396o. 42 U.S.C. 1396o establishes categories of individuals for whom a state's Medicaid program may not impose cost sharing as well as cost sharing and premium limits. 42 C.F.R. 447.50 through 447.60 also establishes limits on cost sharing (based on income of the given Medicaid eligibility group); Medicaid populations exempt from cost sharing (children, pregnant women, institutionalized individuals for example); services exempt from cost sharing (emergency services, family planning services to child-bearing age individuals); prohibition against multiple cost sharing for one (1) service; a requirement that state Medicaid programs do not increase a provider's reimbursement by the amount of cost sharing; and a requirement that managed care organizations' cost sharing must comply with the aforementioned federal regulations. 42 C.F.R. 438.108 establishes that a managed care organization's cost sharing must comply with the federal cost sharing requirements for Medicaid established in 42 C.F.R. 447.50 through 42 C.F.R. 447.90.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (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. Federal regulations 42 C.F.R. 447.50 through 42 C.F.R. 447.90, 42 C.F.R. 447.15 and 447.20, and this administrative regulation authorize the action taken by this administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
922 KAR 1:310E

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)1 to preserve the health and welfare of vulnerable children in the custody of the Cabinet for Health and Family Services. The administrative regulation implements the model licensing standards for foster family homes which are required by federal law Pub.L. 115-123. The standards must be incorporated into the state Title IV-E plan by April 1, 2019. The administrative regulation establishes the procedures to waive non-safety standards for licensing child-specific foster homes. An ordinary administrative regulation would not allow sufficient time to implement the model licensing standards for foster homes and the waiver of non-safety standards procedures in accordance with federal law Pub.L. 115-123. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to the emergency administrative regulation.

MATTHEW G. BEVIN, Governor
ADAM M. MEIER, Secretary

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

922 KAR 1:310E. Standards for child-placing agencies.

RELATES TO: KRS 2.015, 17.165, 17.500(8), 158.135(1)(c), 189.125, 194A.060, 199.011, 199.430(3), 199.470, 199.492, 199.493, 199.510, 199.520, 199.570, 199.572, 199.590, 199.640, 199.645, 199.650-199.670, 258.015, 258.035, 273.161(8), 311.720(9), 311.840(3), 314.011(5), (7), 503.110(1), 527.100, 527.110, 600.020, 605.090(1), 610.110(6), 610.125, 615.010-615.990, 620.030, 620.090(2), 620.140(1)(d), 620.230(3), Chapter 625, 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 672, 677(a), 14901-14954

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), 605.150(1)

EFFECTIVE: April 1, 2019

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.150(1) authorizes[~~permits~~] the cabinet to promulgate

administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes basic standards for child-placing agencies.

Section 1. Definitions. (1) "Adequate supervision" means adult oversight of a child's activities with consideration of the child's past and current:

(a) Incidents;

(b) High risk behaviors; and

(c) Needs.

(2) "Adoption" means the legal process by which a child becomes the child of a person or persons other than biological parents.

(3) "Adoptive home" means a home in which the family has been approved by the child-placing agency to adopt a child.

(4) "Aftercare" means services provided to the child after discharge from a child-placing agency.

(5) "Applicant" means an individual or a family subject to approval by the child-placing agency as a:

(a) Foster home; or

(b) Adoptive home.

(6) "Board of directors" is defined by KRS 273.161(8).

(7) "Case management" means a process whereby a state agency or child-placing agency assesses the individualized needs of a child or family, arranges for the provision of services, and maintains documentation of actions and outcomes.

(8) "Child" means:

(a) A child as defined by KRS 199.011(4) and 600.020(9) [~~600.020(8)~~];

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(9) "Child with medical complexity" means a child who is determined to have a medical condition pursuant to 922 KAR 1:350, Section 4(1)(b).

(10) "Child-placing agency" is defined by KRS 199.011(6) [~~199.011(7)~~].

(11) "College or university" means:

(a) An institution accredited by one (1) of the eleven (11) regional accrediting organizations recognized by the U.S. Department of Education, Office of Postsecondary Education;

(b) For a Kentucky institution, one (1) that is licensed by the Kentucky Council on Postsecondary Education or the Kentucky Board for Proprietary Education; and

(c) For an out-of-state institution, one (1) that is licensed in its home state if licensure is required in that state.

(12) "Executive director" means the person employed by the board of directors to be responsible for the overall administration and management of a child-placing agency.

(13) "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(10)[~~199.011(9)~~] and 600.020(30)[~~600.020(28)~~], if referring to a physical structure; or

(b) Any individual approved as a foster parent by the child-placing agency, if referring to an individual.

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

(a) Physician as defined by KRS 311.720(12)[~~311.720(9)~~];

(b) Physician assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

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

(15) "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker that meets the requirements specified in Section 4(3) of this administrative regulation.

(16) "Independent living program" means a planned program that:

(a) Is licensed by the cabinet and designed to teach a child age sixteen (16) or older life skills that enable a child to become self-sufficient; and

(b) Meets requirements specified in 922 KAR 1:340.

(17) "Independent living services" means services provided to an eligible child, as described in Section 16 of this administrative regulation, to assist the child in the transition from dependency of childhood to living independently.

(18) "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.

(19) "Mental health treatment" means services provided to an individual determined to have emotional, mental, or behavioral problems.

(20) "Placement" means:

(a) The physical relocation of a child removed from the child's home of origin with a provider of out-of-home services; or

(b) A foster or adoptive home that has been approved by completing an application process, home study, and required preparation.

(21) "Program director" means the person responsible for supervising the day-to-day operation of the program.

(22) "Respite care" means temporary care provided by another individual or family that meets requirements specified in Section 13 of this administrative regulation to provide relief to a foster care parent, therapeutic foster care parent, or medically complex foster parent with the expectation that the child shall[~~will~~] return to the foster home.

(23) "Sex crime" is defined by KRS 17.500(8).

(24) "Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and the individual's environment.

(25) "Social services worker" means a person retained by a child-placing agency who meets the qualifications as specified in Section 2(4)(c) of this administrative regulation.

(26) "Supervision plan" means a written supplement to a child's ITP, developed pursuant to Section 6(7)(b)2 of this administrative regulation, that details a child-placing agency's roles and responsibilities to assure adequate supervision of a child in the agency's care, including those roles and responsibilities delegated to a foster home parent.

(27) "Therapeutic foster care" is defined by KRS 158.135(1)(c).

(28) "Therapeutic services" means clinical or supportive services provided to a child with severe emotional or behavioral needs.

(29) "Treatment director" means an individual who meets the qualifications as specified in Section 2(4)(d) of this administrative regulation.

Section 2. Administration and Operation. (1) Licensing procedures.

(a) Licensing procedures for a child-placing agency shall be administered pursuant to 922 KAR 1:305.

(b) An independent living program shall be an optional component of the child-placing agency's license in accordance with 922 KAR 1:340.

(c) A child-placing agency shall obtain accreditation within two (2) years of initial licensure or within two (2) years of acquiring an agreement with the cabinet to provide private child care services, whichever is later. Accreditation shall be from a nationally-recognized accreditation organization, such as:

1. The Council on Accreditation;[~~or~~]

2. The Joint Commission on Accreditation for Healthcare Organizations; or

3. The Commission on Accreditation of Rehabilitation Facilities.

(d) The cabinet shall revoke a license if a child-placing agency fails to:

1. Become accredited in accordance with paragraph (c) of this subsection; or

2. Maintain accreditation.

(e) The child-placing agency shall provide proof of accreditation to the Office of Inspector General, Division of Regulated Child Care:

1. Upon receiving initial accreditation; and

2. At the time of annual inspection for re-licensure.

(2) Board of directors. The child-placing agency shall have a

board of directors, or an advisory board if the child-placing agency is a privately-held for-profit organization, that shall:

(a) Consist of a minimum of seven (7) members;

(b) Meet at least quarterly;

(c) Cause minutes of the meeting to be taken and kept in written form;

(d) Be responsible for and have the authority to ensure the continuing compliance with the requirements established by this administrative regulation;

(e) Approve a mission statement;

(f) Establish and revise, when necessary, the child-placing agency's:

1. Purpose;

2. Objective;

3. Scope of services to be provided; and

4. Intake policy specifying the type of child to be accepted for care;

(g) Hire, supervise, and annually evaluate the executive director of the child-placing agency; and

(h) Delineate in writing the duties of the executive director.

(3) Executive director.

(a) The executive director shall:

1. Be responsible for the child-placing agency and its affiliates, pursuant to the child-placing agency's written policies and procedures;

2. Oversee all aspects of the child-placing agency; and

3. Report to the board, on a quarterly basis, the following:

a. Evaluation of program services;

b. Measurement of attainment of the objective established pursuant to subsection (2)(f)2 of this section;

c. Staff training; and

d. Incident reports.

(b) The criteria and process of the evaluation required in paragraph (a)3a of this subsection shall be approved by the board annually.

(c) If the executive director is not available <u>on the premises or accessible by telephone</u>, a designated staff person shall be responsible for the day-to-day operation of the child-placing agency.

(4) Staff qualifications.

(a) An executive director shall possess the following qualifications:

1.a. A master's degree from a college or university in any of the following human services fields:

(i) Social work;

(ii) Sociology;

(iii) Psychology;

(iv) Guidance and counseling;

(v) Education;

(vi) Religious education;

(vii) Business administration;

(viii) Criminal justice;

(ix) Public administration;

(x) Child-care administration;

(xi) Nursing;

(xii) Family studies; or

(xiii) Another human service field related to working with families and children; and

b. Two (2) years of work experience in a human services program; or

2.a. A bachelor's degree with a major in a discipline designated in subparagraph 1 of this paragraph; and

b. Four (4) years of work experience in a human services program.

(b) A licensed child-placing agency shall have one (1) member of the social work staff designated as program director who shall hold:

1. A master's degree from a college or university in social work or in a discipline designated in paragraph (a)1 of this subsection; or

2.a. A bachelor's degree from a college or university in social work or in a discipline designated in paragraph (a)1 of this subsection; and

b. At least two (2) years of professional experience in working with a child or family.

(c) A social services worker shall:

1. Be responsible for planning and coordinating services to a child; and

2. Hold at least a bachelor's degree from a college or university in social work or a human services field.

(d) A treatment director shall:

1. Oversee the day-to-day operation of the treatment program<u>, including:</u>

<u>a. Reviewing all client treatment plans;</u>

<u>b. Providing face-to-face supervision to therapists under the treatment director's supervision at least twice per month;</u>

<u>c. Remaining accessible to therapists at all times to provide consultation; and</u>

<u>d. Reviewing any critical incidents, including debriefs with involved staff;</u>

2. Hold at least a master's degree from a college or university in a human services discipline; and

3. Have at least five (5) years of total experience in mental health treatment, with a minimum of three (3) years of experience in mental health treatment of children with emotional or behavioral disabilities and their families.

(e)1. A child-placing agency contracting for the service of a social services worker not an employee of the child-placing agency shall obtain documentation that the social services worker meets the qualifications in paragraph (c) of this subsection.

2. An agreement for this provision of service shall be on file at the child-placing agency and shall specify the qualifications of the social services worker.

(f) The program director shall supervise social services workers.

(g) A treatment director shall carry out approval and evaluation of services.

(h)1. Social services workers shall not carry a caseload of more than twenty (20) children.

2. If a social services worker carries a caseload of children in some combination of foster care, therapeutic foster care, medically complex foster care, or an independent living program, the allowable caseload for the social services worker shall be determined by:

a. Dividing the number of children in each placement type on the worker's caseload by the maximum caseload for the placement type to derive a percentage;

b. Adding each percentage calculated in clause a. of this subparagraph to derive a sum; and

c. Maintaining the sum derived in clause b. of this subparagraph at or below 100 percent.

(5) Personnel policy.

(a) A child-placing agency shall have and comply with written personnel policies and procedures.

(b) An employee shall:

1. Be at least eighteen (18) years of age;

2. Submit to a criminal background check in accordance with KRS 17.165 and a central registry check in accordance with 922 KAR 1:470; and

3. Submit to a new criminal background check in accordance with KRS 17.165 and central registry check in accordance with 922 KAR 1:470 once every two (2) years.

(c)1. If a substantiated finding of abuse, neglect, or exploitation of a child has been made against a person, a child-placing agency shall not employ the person or allow the person to volunteer in a position involving direct contact with a child.

2. The cabinet shall respond to allegations of abuse, neglect, or exploitation of a child in accordance with 922 KAR 1:330 and 922 KAR 1:480.

(d) A current personnel record shall be maintained for an employee that includes the following:

1. Name, address, Social Security number, date of employment, and date of birth;

2. Evidence of qualifications, including degree from a college or university, current registration, certification, or licensure;

3. Record of participation in staff development;

4. Record of performance evaluation;

5. Criminal records and central registry checks pursuant to paragraph (b)2 and 3 of this subsection;

6. Record of a physical exam related to employment, as specified in the child-placing agency's policies and procedures;

7. Personnel action;

8. Application for employment, resume, or contract; and

9. Evidence of personnel orientation.

(e) A child-placing agency shall have an ongoing staff development program under the supervision of a designated staff member.

(f) An employee under indictment, legally charged with felonious conduct, or subject to a cabinet investigation in accordance with 922 KAR 1:330 shall:

1. Be immediately removed from contact with a child; and

2. Not be allowed to work with a child until:

a. A prevention plan has been written and approved by a designated regional cabinet staff;

b. The person is cleared of the charge; or

c. A cabinet investigation reveals an unsubstantiated finding, if the charge resulted from an allegation of child:

(i) Abuse;

(ii) Neglect; or

(iii) Exploitation.

(g) Unless the volunteer is a practicum student, a volunteer who performs a similar function as paid staff described in subsection (4) of this section shall meet the same requirements and qualifications.

(h) Practicum students and volunteers shall submit to a background check and any other mandatory requirements listed in subsection (5)(b) and (c) of this section.

(i) A current personnel record shall be maintained for a practicum student or volunteer that includes the following:

1. Name, address, Social Security number, starting date, and date of birth;

2. Evidence of qualifications if the volunteer performs a similar function as paid staff; and

3. Criminal records and central registry checks pursuant to paragraph (h) of this subsection.

(6) Physical management. If a child-placing agency uses physical management, the agency shall have established guidelines and policies governing the use of physical management that shall be:

(a) Consistent with accreditation standards; and

(b) In accordance with 922 KAR 1:300.

(7) Notifications. A licensed child-placing agency shall provide written notification within one (1) week to the Office of Inspector General, Division of Regulated Child Care when there is a change in the following leadership staff:

(a) Executive director;

(b) Program director; or

(c) Treatment director.

Section 3. Interstate Placement. (1) Prior to accepting a child from another state or prior to placing a child outside Kentucky, a child-placing agency shall comply with:

(a) KRS 615.030 to 615.040, Interstate Compact on Placement of Children;

(b) KRS 615.010, Interstate Compact for Juveniles; and

(c) 42 U.S.C. 671(a)(23).

(2) A child-placing agency shall comply with subsection (1) of this section if a child placed with the child-placing agency visits or receives respite care in another state for a period to exceed:

(a) Thirty (30) days; or

(b) The child's school vacation period as ascertained from the academic calendar of the school.

(3) If an emergency placement of a child into a licensed child-placing agency is made, the placement source shall be responsible for compliance with KRS 615.030 to 615.040.

Section 4. Evaluation of an Applicant. (1) A child-placing agency's social services staff shall recruit a prospective foster or adoptive home.

(2) A child-placing agency shall:

(a) Complete a home study; and

(b) Approve the home prior to the placement of a child.

(3) Documentation of the home study shall include the following:

(a) A minimum of two (2) home visits for the purpose of conducting:

1. One (1) interview with each of the household members individually to assess each member's attitude toward the placement or adoption of a child; and

2. One (1) family consultation with all household members present to observe the functioning of the applicant's household, including interpersonal relationships and patterns of interaction;

(b) Proof of the applicant's:

1. Identity, such as a federally or state-issued photo identification card;

2. Age of twenty-one (21) years or older, unless an exception is granted pursuant to subsection (4) of this section; and

3. United States citizenship or legal immigrant status as described in 8 U.S.C. 1151;

(c) A statement for each member of the applicant's household that shall:

1. Be signed by a health professional who is not a member of the applicant's household; and

2. Verify that the individual:

a. Is free of a communicable or infectious disease; and

b. Has no illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(d) A signed statement by a health professional who is not a member of the applicant's household regarding the applicant's physical ability to provide necessary care for a child.

1. All household members shall disclose mental health and substance abuse issues, including any history of drug or alcohol abuse treatment; and

2. The private child placing agency shall require further documentation or evaluation to determine the suitability of the home if there is an indicator of current or past mental health or substance abuse issues;

(e) Verification that the applicant has a source of income separate from:

1. Foster care reimbursement; or

2. Adoption assistance;

(f) Documentation of references to include:

1.a. The name of three (3) personal references including[~~who~~]:

(i) One (1) relative[~~a. Are not related to the applicant~~]; and

(ii) Two (2) non-relatives.

b. The references required by clause a. of this subparagraph [~~(i)~~] shall:

(i) Be interviewed by the child-placing agency staff in person or by telephone; or

(ii)[~~Shall~~] Provide letters of reference for the applicant; and

2. Two (2) credit references or a credit report;

(g) Verification that the applicant's financial stability has been assessed and approved in accordance with a child-placing agency's written policies and procedures;

(h) Documentation of an in-person or telephone interview with each adult child of the applicant, who does not live in the applicant's home, regarding the applicant's parenting history unless a documented exception exists and is approved by the program director due to inaccessibility;

(i) If applicable, verification from the applicant regarding a:

1. Previous divorce;

2. Death of a spouse; or

3. Present marriage;

(j) If the applicant does not have custody of the applicant's own child:

1. A copy of a visitation order, if applicable;

2. A copy of a child support order, if applicable; and

3. Proof of current payment of child support, if applicable;

(k) Proof that the child-placing agency performed background checks on the applicant and any member of the applicant's household as required by[~~in accordance with criteria established in~~] 922 KAR 1:490;

(l) Documentation that the applicant has access to:

1. Transportation that meets the child's needs, including

restraint requirements pursuant to KRS 189.125;

2. School;

3. Recreation;

4. Medical care; and

5. Community facilities;

(m) If an applicant or household member shall[~~will~~] be transporting a foster child:

1. Proof that the individual possesses a valid driver's license and has automobile or driver's insurance coverage; and

2. Documentation that the applicant or household member shall abide by passenger restraint laws;

(n) Documentation that the applicant's home:

1. Does not present a hazard to the health and safety of a child;

2. Is well heated and ventilated;

3. Complies with state and local health requirements regarding water and sanitation; and

4. Provides access to indoor and outdoor recreation space appropriate to the developmental needs of a child placed in the applicant's home;

5. Provides functioning kitchen facilities; and

6. Provides a functioning bathroom, including a:

a. Toilet;

b. Sink; and

c. Bathtub or shower.

(o) Verification that the requirements established by this paragraph are being followed.

1. More than four (4) children, including the applicant's own children, shall not share a bedroom;

2. Thorough consideration shall be given to age, gender, and background if children share a bedroom;

3. Children of different genders over the age of five (5) shall not share a bedroom unless an exception has been granted to facilitate the placement of a sibling group and no high-risk behaviors are present that would require separation;

4. A bedroom used by a child in the custody of a state agency shall be comparable to other bedrooms in the house; and

5. A foster parent shall not share a bedroom with a child in the custody of a state agency, unless prior approval is obtained from the state agency based on the needs of the child;

(p) Verification that an individual bed:

1. Is provided for each child in the home;

2. If the child is under age one (1), is a crib that meets the Consumer Products Safety Commission Standards pursuant to 16 C.F.R. 1219-1220;

3. Is age and size appropriate for the child; and

4. Has a mattress that:

a. Meets current Consumer Products Safety Commission Standards in 16 C.F.R. Parts 1632 and 1633;

b. Is in good repair; and

c. Has a clean, fitted sheet that shall be changed:

(i) Weekly; or

(ii) Immediately if it is soiled or wet;

(q) Verification that the following are inaccessible to a child:

1. Alcoholic beverages;

2. Poisonous or hazardous materials;

3. Ammunition and firearms in accordance with KRS 527.100 and 527.110;

4. An animal that presents a danger to a child; and

5. Medication unless an exception is granted pursuant to subsection (10) of this section;

(r) Proof that the applicant has:

1. First aid supplies [~~with unexpired dates~~] available and stored in a place easily accessible by the foster parent;

2. An accessible[~~A~~] working telephone;

3. A working smoke alarm within ten (10) feet of each bedroom and on each floor of the home;

4. A working carbon monoxide detector in a home with gas heating or appliances; and

5. Any household animal vaccinated in accordance with KRS 258.015 and 258.035;

(s) If a business open to the public adjoins the applicant's household, consideration of potential negative impacts on the child and family, including:

1. Hours of operation;

2. Type of business; and

3. Clientele;[~~and~~]

(t) Safety precautions related to an accessible swimming pool, if applicable; and

(u) If an applicant was approved to foster or adopt a child by another child placing agency or the cabinet and the applicant's home was closed:

1. Verification of the closure; and

2. A statement to indicate whether the closure was at the request of the applicant or the agency.

(4) Exception to subsection (3)(b)2 of this section shall be granted if the applicant is:

(a) Between eighteen (18) and twenty-one (21) years of age;

(b) A relative of the child to be placed in the applicant's home; and

(c) Able to meet the needs of the child to be placed in the applicant's home.

(5) For each potential applicant evaluated, a child-placing agency shall keep a written record of the findings of the home study and the evidence on which the findings are based.

(6)(a) A child-placing agency shall request written approval from the state agency with custody of the child, for the foster home to provide services as a:

1. Certified provider of Supports for Community Living in accordance with 907 KAR 12:010[~~1:145~~];

2. Therapeutic foster care provider for adults in accordance with 907 KAR 12:010[~~3:030~~];

3. Certified family child-care home in accordance with 922 KAR 2:100; or

4. Licensed child-care center in accordance with 922 KAR 2:090.

(b) An approved foster home shall not simultaneously be used as a licensed or certified health care or social service provider for a child in the foster home's care.

(7)(a) An employee of the department who provides protection and permanency services shall be considered for approval as[~~prohibited from becoming~~] a foster parent or respite care provider for a child in the custody of the cabinet if prior approval by the commissioner or designee is granted in writing through the service region administrator or designee in the region of the employment.

(b) If approval is granted, the private child-placing agency shall not place children from within the region of employment unless:

1. The employee is related to the child; or

2. The employee is determined to be fictive kin as the result of a relationship developed outside of employment prior to the child being placed in the custody of the cabinet[~~, unless the:~~

~~(a) Employee was a foster parent or respite care provider for the child at the time employment with the department in protection and permanency services began; and~~

~~(b) Commissioner approves, in writing, the employee to be a foster parent or respite care provider for the child~~].

(8) An employee of the department who provides protection and permanency services may apply to adopt a child in the custody of the cabinet if the commissioner approves, in writing, the employee to adopt.

(9)(a) A child-placing agency shall develop written policies and procedures regarding employees of the child-placing agency serving as:

1. A foster parent;

2. An adoptive parent; or

3. A respite care provider.

(b) Policies and procedures developed in accordance with paragraph (a) of this subsection shall address the prevention or appearance of:

1. A conflict of interest; or

2. Misuse of influence.

(10) A child-placing agency may make an exception to subsection (3)(q)5 of this section if:

(a) The exception is documented in the ITP of a child placed in the foster or prospective adoptive home;

(b)1. The child is approved by a health professional to self-administer medicine under the supervision of the foster or prospective adoptive parent or other caretaker; or

2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and

(c) Measures are taken to prevent unauthorized access by another child in the same home.

(11) If an applicant is approved as a foster home, adoptive home, or respite care provider by a state agency or another child-placing agency, a child-placing agency shall:

(a) Conduct a home study in accordance with subsections (2), (3), and (5) of this section; and

(b) Document that the applicant meets training requirements in accordance with Section 5, 7, 10, 13, or 18 of this administrative regulation. If an applicant lacks training in accordance with this paragraph, the child-placing agency shall, prior to placement of a child in the home:

1. Provide training in accordance with Section 5, 7, 10, 13, or 18 of this administrative regulation; or

2.a. Develop an individualized curriculum to fulfill unmet training needs; and

b. Document the applicant's compliance with the individualized curriculum.

Section 5. Orientation and Preparation of a Foster Home. (1) With the exception of training requirements specified in 922 KAR 1:495 for a foster home that cares for a child in the custody of the cabinet, a child-placing agency shall:

(a) Develop and maintain an orientation and preparation curriculum to be kept on file;

(b) Provide a minimum of twenty-four (24) hours of orientation and preparation to a prospective foster parent, to include the following:

1. Child-placing agency program description with mission statement;

2. Information about the rights and responsibilities of the home;

3. Background information about the foster child and the child's family, including information in accordance with KRS 605.090(1)(b);

4. An example of an actual experience from a foster parent that has fostered a child;

5. Information regarding:

a. The stages of grief;

b. Identification of the behavior linked to each stage;

c. The long-term effect of separation and loss on a child;

d. Permanency planning for a child, including independent living services;

e. The importance of attachment on a child's growth and development and how a child may maintain or develop a healthy attachment;

f. Family functioning, values, and expectations of a foster home;

g. Cultural competency;

h. How a child enters and experiences foster care, and the importance of achieving permanency; and

i. The importance of birth family and culture and helping children leave foster care;

6. Identification of changes that may occur in the home if a placement occurs, to include:

a. Family adjustment and disruption;

b. Identity issues; and

c. Discipline issues and child behavior management; and

7. Specific requirements and responsibilities of a foster parent; and

(c) Maintain an ongoing foster home preparation and training program that:

1. Provides a minimum of six (6) hours of foster home training annually; and

2. Maintains a record of preparation and training completed.

(2) Training provided in accordance with 922 KAR 1:495 may be utilized for a foster home that does not care for a child in the custody of the cabinet if the governmental agency or individual with oversight of the child approves the training.

Section 6. Placement, Case Management, and Supervision of a Child in a Foster Home, Medically Complex Foster Home, or Therapeutic Foster Care Home. (1) A child-placing agency shall:

(a) Place a child only in an approved foster home; and

(b) Keep a child who has been committed to the Department of Juvenile Justice for the commission of a sex crime in a separate foster home or prospective adoptive home from a child committed to the cabinet in accordance with KRS 605.090(1), 620.090(2), and 620.230(3).

(2) A child-placing agency shall select a foster home for a child based upon the individual needs of the child, including:

(a) The child's assessment and ITP, if available;

(b) Any information concerning the child's needs in placement; and

(c) Measures to support the safety of the child, such as a placement restriction in accordance with subsection (1)(b) of this section or another child in the foster home.

(3) A child shall participate in the intake process to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

(4) Unless an exception is granted pursuant to subsection (6) of this section, the number of children residing in a foster home shall not exceed six (6)[~~five (5)~~], including the foster parent's own children living in the home.

(5) Unless an exception is granted pursuant to subsection (6) of this section, a child-placing agency shall have a maximum of two (2) children under two (2) years of age placed in the same foster home at the same time, including children placed in the custody of the cabinet and the foster parent's own children.

(6)(a) Justification for an exception to subsection (4) or (5) of this section shall be:

1. Documented in the foster parent file; and

2. Authorized by the program director because a plan is in place with the foster parent to ensure that the needs of all children in the home are met.

(b) For a foster home that cares for a child in the custody of the cabinet, the child-placing agency shall submit a DPP-112B, Private Child-Placing Agency Placement Exception Request, for an exception to subsection (4) or (5) of this section to designated cabinet staff prior to the placement documenting:

1. The reason the placement is in the best interest of the child; and

2. Specific support services to be provided.

(c) The number of foster children residing in a foster family home may exceed the limitation established in subsection (4) of this section with documentation on the DPP-112B in order to allow:

1. A parenting youth in foster care to remain with the child of the parenting youth;

2. Siblings to remain together;

3. A child with an established meaningful relationship with the family to remain with the family;

4. A family with special training or skills to provide care to a child who has a severe disability; or

5. Other circumstances noted in the DPP-112B and approved by the service region administrator or designee.

(d) If an exception to subsection (4) or (5) of this section is necessary for a placement to occur outside of normal business hours:

1. The child-placing agency shall verbally provide all information contained within the DPP-112B to designated cabinet staff prior to the placement;

2. A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and

3. The completed DPP-112B shall be submitted on the first business day following placement.

(7) A child-placing agency shall:

(a) Assess a child to be placed in foster care;

(b) Within thirty (30) days of a child's placement, develop:

1. An ITP:

a. Based upon the individual strengths and needs of the child

and, if appropriate, the child's family, which addresses the:

(i) Visitation, health, and educational needs of the child;

(ii) Child's permanency goals and related objectives;

(iii) Methods for accomplishing each goal and objective; and

(iv) Designation of an individual or individuals responsible for completion of each goal and objective; and

b. With the child and the child's parent:

(i) That includes offering the child the opportunity to sign the ITP signifying the child's understanding; and

(ii) Unless a circumstance exists which precludes engagement of the child or the child's parent from occurring and is documented in the child's case record; and

2. A supervision plan for the child which:

a. Is attached to the child's ITP;

b. Identifies the current supervision needs of and expectations for the child based upon the child's recent and past:

(i) Incidents;

(ii) High-risk behaviors; and

(iii) Needs identified in the assessment conducted pursuant to paragraph (a) of this subsection;

c. Includes goals and objectives for the child's improvement with tasks assigned to the child-placing agency and foster home parent;

d. Is signed and dated by the social service worker and foster home parent; and

e. Remains a part of the child's record;

(c) Review a child's ITP and supervision plan on a quarterly basis or more frequently as the child's needs or circumstances dictate;

(d) Have a written agreement with the foster home stating the:

1. Responsibilities of the:

a. Child-placing agency; and

b. Foster home; and

2. Terms of each placement;

(e) Require a foster home to certify, in writing, that supervision from the child-placing agency or the state agency, which has custody of the child, shall be allowed;

(f) Document a placement in the foster home file;

(g) Report immediately to the state agency which has custody of the child if there is:

1. A hospitalization or life-threatening accident or illness;

2. An absence without official leave;

3. A suicide attempt;

4. Criminal activity by the child;

5. Death;

6. Possession of a deadly weapon by a child;

7. Change in address;

8. Change in the number of people living in the home; or

9. Significant change in the foster home, such as changes in health or income status of an individual living in the foster home;

(h) Establish policies and procedures for supervision of a foster home by a worker other than the social services worker assigned to the foster home, who meets qualifications specified in Section 2(4)(c) of this administrative regulation to:

1. Include:

a. Frequency of an in-home visit with the foster parent;

b. Means of supervision;

c. Methods of supervision; and

d. Personnel conducting the supervision;

2. Ensure a foster child's placement stability and safety; and

3. Be individualized, as needed, for the:

a. Child; or

b. Foster home;

(i) Identify and make available necessary supports to a foster home, including:

1. A plan for respite care in accordance with Section 13 of this administrative regulation;

2. Twenty-four (24) hour crisis intervention; and

3. A foster home support group;

(j) Assure that a child receives care and services, including independent living services:

1. In accordance with Section 16 of this administrative regulation; and

2. As prescribed by the child's needs as assessed in the child's ITP;

(k) Provide information to a foster parent regarding the behavior and development of the child placed by the child-placing agency;

(l) Inform the foster parent, in accordance with KRS 605.090(1)(b), of:

1. Inappropriate sexual acts or sexual behavior of the child as specifically known to the child-placing agency; and

2. Any behaviors of the child that indicate a safety risk for the placement;

(m) Document each effort to:

1. Protect the legal rights of the family and the child; and

2. Maintain the bond between the child and the child's family, in accordance with the child's permanency plan;

(n) Assure that a child shall have, for the child's exclusive use, clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(o) Be responsible for monitoring the child's school progress and attendance;

(p) Secure psychological and psychiatric services, vocational counseling, or other services if indicated by the child's needs;

(q) Reassess and document quarterly, in the child's ITP, placement and permanency goals, including independent living services, in accordance with Section 16 of this administrative regulation;

(r) Conduct and document a face-to-face visit with the child at least once per month; and

(s) Maintain foster care records in accordance with Section 17 of this administrative regulation.

(8) Without prior notification to and written authorization from the Kentucky Interstate Compact Administrator, a child shall not be:

(a) Placed with a family that normally resides in another state; or

(b) Permitted to go with a person to take up residence in another state.

(9)(a) An approved foster home in use shall be evaluated on an annual basis for compliance with responsibilities listed in the written agreement described in subsection (7)(d) of this section.

(b) Results shall be recorded in the foster parent file.

(10) Factors that shall result in a review of a foster home shall include:

(a) Death or disability of a family member;

(b) Sudden onset of a health condition that impairs a foster parent's ability to care for a child placed in the home;

(c) Change in marital status or home address;

(d) Sudden, substantial decrease in, or loss of, income;

(e) Child birth;

(f) Use of a form of punishment that includes:

1. Cruel, severe, or humiliating actions;

2. Corporal punishment inflicted in any manner;

3. Denial of food, clothing, or shelter;

4. Withholding implementation of the child's ITP;

5. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; and

6. Assignment of extremely strenuous exercise or work;

(g) A report of abuse, neglect, or dependency that results in a finding that is:

1. Substantiated; or

2. Reveals concern regarding the care of the child;

(h) If the foster parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense;

(i) An incident required to be reported in accordance with subsection (7)(g) of this section and Section 12(6) of this administrative regulation; or

(j) Other factors identified by a child-placing agency that jeopardize the physical, mental, or emotional well-being of the child.

(11) The documentation of a review, specified in subsection (10) of this section, shall contain:

(a) Identifying information;

(b) Current composition of the household;

(c) Description of the situation that initiated the review;

(d) An assessment of the family functioning to determine if the child's needs are met; and

(e) Corrective action that may include a recommendation for closure of the foster home.

Section 7. Orientation and Preparation of a Therapeutic Foster Care Home. (1) A child-placing agency shall maintain the orientation and preparation curriculum on file.

(2) Unless a therapeutic foster care home cares for a child in the custody of the cabinet and is subject to training requirements specified in 922 KAR 1:495, a child-placing agency shall provide a minimum of thirty-six (36) hours of orientation and preparation for a prospective therapeutic foster care parent that shall incorporate the following topic areas:

(a) Child-placing agency program description with mission statement;

(b) Information about the rights and responsibilities of the therapeutic foster care home;

(c) Background information about a foster child and the child's family;

(d) An example of an actual experience of a therapeutic foster care parent that has fostered a child;

(e) Stages of grief;

(f) Behaviors linked to each stage of grief;

(g) Long-term effects on a child from separation and loss;

(h) Permanency planning for a child, including independent living services;

(i) Importance of attachment on a child's growth and development and the way a child maintains and develops a healthy attachment, including attachment disorder and associated behaviors;

(j) Family functioning, values, and expectations of a therapeutic foster care home;

(k) Changes that may occur in the home with placement of a child regarding:

1. Family functioning;

2. Family adjustment;

3. Identity issues;

4. Discipline issues and child behavior management; and

5. Family disruption;

(l) Specific requirements and responsibilities of a therapeutic foster care home;

(m) Behavior management;

(n) Communication skills;

(o) Skill teaching;

(p) Cultural competency;

(q) Behavior management de-escalation techniques;

(r) The dynamics of a child who has experienced sexual abuse or human trafficking; and

(s) The effect of chemical abuse or dependence by the child or the child's biological parent.

(3) A therapeutic foster care home shall receive:

(a) A minimum of twenty-four (24) hours of annual training; or

(b) Training in accordance with 922 KAR 1:495 if the home provides care to a child in the custody of the cabinet.

(4) A child-placing agency that provides therapeutic foster care shall maintain an ongoing therapeutic foster care preparation and training program that:

(a) Provides training to meet requirements of subsection (2) of this section; and

(b) Maintains a record of preparation and training completed.

Section 8. Additional Requirements for Therapeutic Foster Care. (1) A therapeutic foster care home shall accommodate the needs of a child who is unable to live with the child's own family and who:

(a) May benefit from care in a family setting; and

(b)1. Has clinical or behavioral needs that exceed supports available in a foster home; or

2. Is transitioning from group care as part of the process of returning to family and community.

(2) Unless an exception is granted pursuant to subsection (3) of this section, the number of children residing in a therapeutic foster care home that does not care for a child in the custody of the cabinet shall be limited to a total of five (5) children, including no more than two (2) therapeutic foster care children.

(3) Justification for an exception to subsection (2) of this section shall be:

(a) Documented in the therapeutic foster care parent's file; and

(b) Authorized by the treatment director because a plan is in place with the foster care parent to ensure that the needs of all children in the home are met.

(4) Unless an exception is granted pursuant to subsection (5) of this section, the number of children residing in a therapeutic foster care home that cares for a child in the custody of the cabinet shall be limited to a total of four (4) children, including no more than two (2) therapeutic foster care children.

(5) To make a request for an exception to subsection (4) of this section, a child-placing agency shall follow the procedure set forth in Section 6(6)(b) of this administrative regulation.

(6) A treatment director shall supervise a treatment team and shall participate in the development of the ITP and the quarterly case consultation.

(7) A child-placing agency shall provide or contract, as specified in KRS 199.640(5)(a)2, for therapeutic services individualized for the child, as needed, at least two (2) times per month.

(8) A therapeutic foster care parent shall be responsible for:

(a) Participation in the development of an assessment, ITP, and supervision plan as specified in Section 6(7) of this administrative regulation;

(b) Facilitation of in-home services provided by a social services worker at least two (2) times per month;

(c) Adequate supervision of the child and implementation of components of the ITP, including daily log documentation as specified in the ITP;

(d) Working with the child-placing agency to promote stability and avoid disruption for the child; and

(e) Working with the child-placing agency in the development of a plan for the smooth transition of the child to a new placement, if there is a disruption.

(9) Except for a child who is the legal responsibility or in the custody of the cabinet or the Department of Juvenile Justice, a child-placing agency shall be responsible for:

(a) A preplacement conference, in a nonemergency placement, for the purpose of:

1. Developing permanency goals and a discharge plan for the child, including independent living services;

2. Developing a plan for the implementation of services;

3. Identifying the treatment goals; and

4. Developing a behavior management plan if applicable; and

(b) Inviting and encouraging attendance to the preplacement conference by:

1. The prospective therapeutic foster care home;

2. A respite care provider approved in accordance with Section 13(4) of this administrative regulation;

3. The child, if appropriate; and

4. The child's family.

(10) The social services worker shall:

(a) Have a face-to-face visit with a child and therapeutic foster care parent on the day of the child's placement;

(b) Have another face-to-face visit with the therapeutic foster care parent or child within ten (10) calendar days of the child's placement;

(c) Telephone or visit, on a weekly basis, at least one (1) of the therapeutic foster care parents of each child on the therapeutic foster care worker's caseload;

(d) Visit a therapeutic foster care parent a minimum of two (2) times a month with at least one (1) visit being in the foster home;

(e) Visit the foster child face-to-face a minimum of two (2) times a month with at least one (1) visit in the therapeutic foster care home and one (1) visit outside the foster home;

(f) Carry a caseload of not more than twelve (12) therapeutic foster care children, taking into account:

1. Required responsibilities other than the case management of a child in foster care;

2. Additional support, contact, and preparation needed by a therapeutic foster care home, due to the extent of the needs of the child served;

3. The intensity of services provided to the child and the child's family; and

4. Caseload expectations established in Section 2(4)(h) of this administrative regulation;

(g) Conduct a quarterly case consultation, including the:

1. Foster home;

2. Child's public agency worker;

3. Child-placing agency treatment director and social services worker; and

4. Child and the child's family of origin, to the extent possible;

(h) Identify the support needed by the foster family, including a:

1. Plan for respite care as provided in Section 13 of this administrative regulation;

2. Plan for twenty-four (24) hour on-call crisis intervention; and

3. Foster home support group;

(i) Recommend and prepare an aftercare plan for a child, prior to discharge from therapeutic foster care, to ensure a successful transition; and

(j) Document a quarterly case consultation and revision to a child's ITP as determined by the case consultations.

(11) A child-placing agency shall:

(a) Meet requirements specified in Section 6(1) through (3) and (7) through (11) of this administrative regulation; and

(b) Annually reevaluate a therapeutic foster care home in accordance with Section 15 of this administrative regulation.

Section 9. Child With Medical Complexity. (1) A child with medical complexity shall be:

(a) A child in the custody of the cabinet; and

(b) Determined by the cabinet to meet the child with medical complexity requirements of 922 KAR 1:350.

(2) The decision to accept a child with medical complexity shall be optional to a child-placing agency.

(3) If a child placed with a child-placing agency in a non-medically complex foster home becomes medically complex in accordance with subsection (1) of this section, the Division of Protection and Permanency director or designee and child-placing agency shall reevaluate the placement and ensure the child's needs can be met.

Section 10. Preparation of a Medically Complex Foster Home. (1) A child-placing agency shall create a medically complex foster home only if the child-placing agency has:

(a) Staff meeting qualifications established in Section 2(4) of this administrative regulation supervising the home, who have received medically complex training in accordance with subsection (2)(b) and (c) of this section; and

(b) A liaison established with the cabinet.

(2) A foster home shall be approved to care for a child with medical complexity by a child-placing agency if the foster home:

(a) Includes a primary caregiver who is not employed outside the home, unless approved in writing by designated cabinet staff;

(b) Completes training as specified in 922 KAR 1:495, Section 4;

(c) Maintains certification in:

1. Infant, child, and adult CPR; and

2. First aid;

(d) Is located within a:

1. One (1) hour drive of a medical hospital with an emergency room; and

2. Thirty (30) minute drive of a local medical facility; and

(e) Is evaluated in accordance with Section 4 of this administrative regulation.

(3) If the cabinet determines that a child currently in the care of a foster parent approved by the child-placing agency is a child with medical complexity in accordance with Section 9(1) of this administrative regulation, then the cabinet shall prioritize the foster home's enrollment in training as specified in subsection (2)(b) and (c) of this section.

(4) An approved medically complex foster home shall receive annual reapproval, if the foster home:

(a) Annually completes ongoing training as specified by subsection (2)(b) and (c) of this section; and

(b) Continues to meet the requirements in Section 15 of this administrative regulation.

(5) Except for a sibling group or unless approved by designated cabinet staff in accordance with the DPP-112B, [~~no~~] more than four (4) children, including the medically complex foster parent's own children, shall <u>not</u> reside in a medically complex foster home, with no more than two (2) children being medically complex or requiring therapeutic foster care.

(6) Unless an exception is approved by designated cabinet staff in accordance with the DPP-112B, a:

(a) One (1) parent medically complex foster home shall not care for more than one (1) child with medical complexity; and

(b) Two (2) parent medically complex foster home shall not care for more than two (2) children with medical complexity.

(7) If a placement would exceed a limit established by subsection (5) or (6) of this section, a child-placing agency shall request an exception in accordance with Section 6(6)(b) of this administrative regulation.

Section 11. Placement of a Child With Medical Complexity. (1)(a) In addition to training required in Section 10(2)(b) and (c) of this administrative regulation, an approved medically complex foster parent shall receive training on how to care for the specific needs of a child with medical complexity placed in the home.

(b) The training shall be conducted by a health professional.

(2) Unless an exception is granted by the director of the Division of Protection and Permanency or designee pursuant to subsection (3)(a) of this section, a child with medical complexity shall be placed in an approved medically complex foster home.

(3) A child-placing agency shall:

(a) Request an exception to subsection (2) of this section in accordance with Section 6(6)(b) of this administrative regulation;

(b) Provide case management services:

1. As described in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and

2. In accordance with the child's:

a. Health plan developed by designated cabinet staff;

b. ITP; and

c. Supervision plan;

(c) Support the child's health plan developed by designated cabinet staff; and

(d) Conduct a face-to-face visit with the child at least two (2) times per month.

Section 12. Expectations for a Foster Home, Therapeutic Foster Care Home, or Medically Complex Foster Home. An approved foster parent, medically complex foster parent, or therapeutic foster care parent shall:

(1) Provide a child placed by the child-placing agency with a family life, including:

(a) Nutritious food;

(b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(c) Affection;

(d) Life skills development<u>, including demonstrating functional literacy</u>;

(e) Recreational opportunities;

(f) Education opportunities;

(g) Nonmedical transportation;

(h) Opportunities for development consistent with the child's religious, ethnic, and cultural heritage;

(i) Adequate supervision; [~~and~~]

(j) Independent living services for a child twelve (12) years of age or older; <u>and</u>

<u>(k) Refraining from smoking in the direct presence of a child for whom their physician recommends, in writing, a smoke-free environment.</u>

(2) Permit a child-placing agency and staff of a state agency to

visit the home;

(3) Share with the child-placing agency and, if applicable, staff of the state agency which has custody of the child, information about the child placed by the child-placing agency;

(4) Notify the child-placing agency fourteen (14) calendar days prior if the home is approved to provide foster or adoptive services through another private child-placing agency or the cabinet;

(5) Notify the child-placing agency prior to:

(a) Leaving the state with a child placed by the child-placing agency for more than twenty-four (24) hours; or

(b) Allowing a child placed by the child-placing agency to be absent from the foster home for more than twenty-four (24) hours;

(6) Report immediately to the child-placing agency through which the child is placed if there is:

(a) A hospitalization or life-threatening accident or illness;

(b) An absence without official leave;

(c) A suicide attempt;

(d) Criminal activity by the child;

(e) Death of any member in the household;

(f) A child's possession of a deadly weapon;

(g) Change in address;

(h) Change in the number of people living in the home;

(i) Significant change in circumstance in the foster home; or

(j) Failure of the foster child or foster parent to comply with the supervision plan;

(7) Cooperate with the child-placing agency if child-placing agency staff arranges for a child, placed in the foster home by the child-placing agency, and the child’s birth family regarding:

(a) Visits;

(b) Telephone calls; or

(c) Mail;

(8) Surrender a child or children to the authorized representative of the child-placing agency or the state agency, which has custody of the child, upon request;

(9) Keep confidential all personal or protected health information as shared by the cabinet or child-placing agency, in accordance with KRS 194A.060 and 45 C.F.R. Parts 160 and 164, concerning a child placed in a home or the child’s birth family;

(10) Support an assessment of the service needs, including respite care, and the development of an ITP, including the supervision plan, of a child placed by the child-placing agency;

(11) Participate in a case planning conference concerning a child placed by the child-placing agency;

(12) Cooperate with the implementation of the permanency goal established for a child placed by the child-placing agency;

(13) Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;

(14) Facilitate the delivery of medical care to a child placed by the child-placing agency as needed, including:

(a) Administration of medication to the child and daily documentation of the administration; and

(b) Physicals and examinations for the child;

(15) Treat a child placed by the child-placing agency with dignity;

(16) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030; and

(17) Comply with general supervision and direction of the child-placing agency or, if applicable, the state agency that has custody of the child, concerning the care of the child placed by the child-placing agency.

Section 13. Respite For Foster Care, Medically Complex Foster Care, or Therapeutic Foster Care. (1) The child-placing agency shall develop written policies and procedures to address the respite care needs of a child or a foster parent.

(2) Respite care shall not be used as a means of placement for a child.

(3) Respite care shall be in accordance with Section 3(2) of this administrative regulation.

(4) The child-placing agency shall not approve a respite care provider unless the provider meets requirements specified by Section 4(3)(b), (d), and (k) through (s) of this administrative regulation.

(5) A respite care provider shall:

(a) Receive, from the agency or foster parent, preparation for placement of a child, including:

1. Information in accordance with KRS 605.090(1)(b); and

2. Information regarding the supervision plan of the child;

(b) Provide adequate supervision in accordance with the child's supervision plan;

(c)1. Give relief to a foster parent caring for a child; or

2. Provide for an adjustment period for a child;

(d) Meet the requirements of Section 6(4) through (6) of this administrative regulation; and

(e) Meet the requirements of Section 8(4) of this administrative regulation if the provider cares for a child requiring therapeutic foster care.

(6) A respite care provider for a child with medical complexity shall:

(a) Meet the requirements of Section 10(4)(b), (5), and (6) of this administrative regulation;

(b) Receive training on how to meet the specific needs of the child with medical complexity from:

1. A health professional; or

2. The foster parent trained by a health professional; and

(c) Maintain certification in:

1. Infant, child, and adult CPR; and

2. First Aid.

Section 14. Private Placement Process. Except for a child in the custody of or otherwise made the legal responsibility of the cabinet or the Department of Juvenile Justice, a child-placing agency shall follow the procedures established by this section if a private placement is conducted. (1) For a child being placed with a child-placing agency, the child-placing agency shall obtain an:

(a) Agreement for voluntary care signed by the custodian; or

(b) Order from a court of competent jurisdiction placing the child into the custody of the child-placing agency.

(2) The child-placing agency shall:

(a) Complete an intake assessment of the strengths and needs of the child and the child’s family of origin; and

(b) Ascertain the appropriateness of the referral for the child.

(3)(a) The child-placing agency shall develop an ITP individualized for a child and the child’s family based on an individualized assessment of the child's and family's needs:

1. Within thirty (30) days of the child’s placement with the child-placing agency; or

2. Prior to the child being placed out of state.

(b) An exception to the requirement specified in paragraph (a) of this subsection may be made for a child:

1. Under the age of twelve (12) months; and

2. With no extraordinary needs.

(c) The assessment shall be revised as needed.

(d) The assessment and ITP shall include the type and extent of services to be provided to the child and the child’s family.

(e) Assessment of the child shall include consideration of the following history:

1. Behavioral health treatment;

2. Trauma;

3. Risk for harm to self or others; and

4. Past behaviors or safety issues that could increase the likelihood of placement disruption.

(4) Unless not in the best interest of the child, the child, parent, and foster parent shall be included in developing the assessment and ITP.

(5)(a) The foster home selected for placement shall be the most appropriate home based on the child's needs and the strengths of the foster family.

(b) The foster home shall be located as close as possible to the home of the family of origin, in order to facilitate visiting and reunification.

(6)(a) The social services worker and the foster parent shall work collaboratively to prepare the child prior to the placement.

(b) Unless a circumstance precludes preparation and the circumstance is documented in the case record, a child shall have a period of preparation prior to the placement in the foster home.

(7) The child-placing agency shall:

(a) Provide or arrange for services to support reunification for a child for whom family reunification is the goal;

(b) Assess and document the parent's capacity for reunification quarterly;

(c) Provide for review of the child in order to evaluate the progress toward achieving the child's permanency goal every six (6) months; and

(d) Assure that foster care continues to be the best placement for the child.

(8)(a) Services to the family of origin and to the child shall be adapted to their individual capacities, needs, and problems.

(b) A reasonable effort shall be made to return the child to the family of origin.

(9) Planning for the child regarding treatment program matters, including visitation, health, education, and permanency goals, shall be developed in collaboration with the:

(a) Family of origin;

(b) Treatment director;

(c) Social services worker; and

(d) Foster home.

(10)(a) The child-placing agency shall work with a foster home to promote stability and avoid disruption for a child, to include:

1. Services specified in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and

2. Annual reevaluation of the foster home in accordance with Section 15 of this administrative regulation.

(b) A request for the removal of a child from a foster home shall be explored immediately and shall be documented by the social services worker.

(c) If disruption is unavoidable, the child-placing agency and foster home shall develop a plan for the smooth transition of the child to a new placement.

(11)(a) Preparation for the return of a child to the family of origin shall be supervised by a social services worker.

(b) The family shall participate in planning for the child's return.

(c) If regular contact with the child's family does not occur, a plan for the child's return shall include at least one (1):

1. Prior visit between the child and the family; and

2. Preliminary visit of the child to the child's family home.

(12) The child-placing agency shall recommend a plan for aftercare services for a child and the child's family.

Section 15. Annual Reevaluation of an Approved Adoptive Home Awaiting Placement or an Approved Foster Home. (1) Annually, a child-placing agency shall:

(a) Conduct a personal interview in the home with an approved:

1. Adoptive home awaiting placement; or

2. Foster home; and

(b) Assess:

1. Any change in the home;

2. The ability of the home to meet the needs of a child placed in the home; and

3. The home's continued compliance with the requirements of this administrative regulation in:

a. Section 4(3)(e), (g), and (i) through (s), and Section 4(5) through (11) of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;

b. Sections 6(9)(a) and 12 of this administrative regulation, with regard to case management and expectations, if the home is approved as a foster home;

c.(i) Sections 5(1)(c) or 7(3)(a) of this administrative regulation, with regard to annual training, if the home is approved as a foster home; or

(ii) 922 KAR 1:495 with regard to annual training if the home is approved to receive a child in the custody of the cabinet; and

d. Section 18(3) of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.

(2) After initial approval, a foster parent, an adoptive parent awaiting placement, a respite care provider, or a member of a foster or adoptive parent's household shall comply with a child-placing agency's request for a statement regarding the parent, provider, or household member's general health and medical ability to care for a child.

(3) If a prospective adoptive home is awaiting an international adoption, the child-placing agency shall conduct a reevaluation of the home once every eighteen (18) months.

Section 16. Independent Living Services. A child-placing agency shall:

(1) Provide independent living services:

(a) To a child:

1. In the custody of a state agency; and

2. Who is twelve (12) to twenty-one (21) years of age;

(b) Directly or indirectly through a foster parent with whom the child is placed;

(c) As prescribed in the child's ITP; and

(d) In accordance with 42 U.S.C. 677(a); and

(2) Teach independent living:

(a) To a child:

1. In the custody of a state agency; and

2. Sixteen (16) years of age and older; and

(b) Developed in accordance with 922 KAR 1:340, Section 3(1)(a).

Section 17. Maintenance of a Foster Care, Medically Complex Foster Care, or Therapeutic Foster Care Record. (1)(a) The child-placing agency shall maintain a record on each child and foster home, including medically complex foster homes and therapeutic foster care homes.

(b) The child's record and the foster home record shall show the reason for placement change and steps taken to ensure success.

(c) A case record shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality, pursuant to KRS 199.430(3), 199.640, and 45 C.F.R. Parts 160 and 164.

(2) The record of the child, including information of the child's family, shall include:

(a) Identifying information for child, parent, and foster home;

(b) Commitment order or custodian's consent for admission;

(c) Birth and immunization certificate;

(d) Educational record;

(e) Medical and dental record since placement;

(f) Social history and assessment;

(g) ITP and review;

(h) Supervision plan and updates to the plan;

(i) Permanency goals, including independent living services;

(j) Incident reports, including details of the child's behavior and supervision at the time of the incident;

(k) Monthly progress notes based on the ITP and supervision plan;

(l) Quarterly revisions to the child's ITP;

(m) Correspondence with the:

1. Court;

2. Family;

3. Department for Community Based Services; or

4. Department of Juvenile Justice;

(n) Discharge report; and

(o) Aftercare plan.

(3) The foster home's record shall include documentation relating to the:

(a) Orientation and preparation of the home, including all adult caregivers in the household;

(b) Required preparation hours and the topics covered;

(c) Placement of the child;

(d) Narrative summary of the initial and annual foster home's home study;

(e) Supervision of the foster home, including critical incidents;

(f)1. Annual training requirements that are met in accordance with Section 5(1)(c) of this administrative regulation by the foster parent and all adult caregivers in the household; or

2. If applicable, annual training requirements in accordance with Section 7(3) or 10 of this administrative regulation;

(g) Background checks in accordance with Sections 4(3)(k)

and 15(1)(b)3.a of this administrative regulation;

(h) Copy of any placement exceptions granted; and

(i) If applicable, copy of the written statement of the foster home's closure completed pursuant to Section 22(5) of this administrative regulation.

(4) A child-placing agency shall:

(a) Maintain a child or foster home's record for at least three (3) years;

(b) After three (3) years of inactivity:

1. Archive the record and have it transferred to one (1) of the cabinet's designated record centers; or

2. Maintain the record in accordance with 725 KAR 1:061 within the child-placing agency;

(c) Transfer the record to the cabinet, if:

1. The agency ceases operations; and

2. No other operational governing entity exists; and

(d) Make available all records maintained by the agency to the cabinet or its designee upon request.

Section 18. Orientation and Preparation of an Adoptive Home for a Child Not in the Custody of the Cabinet. For a child not in the custody of the cabinet, a child-placing agency shall:

(1) Prepare and maintain the orientation and preparation curriculum on file;

(2) Provide orientation and preparation to a prospective adoptive home in accordance with the child-placing agency's policies and procedures to include the following:

(a) An example of an actual experience from a parent who has adopted a child;

(b) Challenging behavior characteristics of an adoptive older child;

(c) Referral resources for a developmental delay;

(d) Transition issues with focus on stages of grief, and a honeymoon period;

(e) Loss and the long-term effects on a child;

(f) Attachment and identity issues of the child;

(g) Cultural competency;

(h) Medical issues including referral resources;

(i) Family functioning, family values, and expectations of an adoptive home;

(j) Identification of changes that may occur in the family unit upon the placement of a child to include:

1. Family adjustment and disruption;

2. Identity issues; and

3. Discipline; and

(k) Financial assistance available to an adoptive home; and

(3) Ensure that an approved adoptive home awaiting the placement of a child receives adoptive home training annually in accordance with the child-placing agency's established policies and procedures.

Section 19. Adoption Placement Process For a Child Not in the Custody of the Cabinet. (1) A child shall not be placed for adoption until the:

(a) Adoptive home has been approved;

(b) Parental rights of the mother, legal or birth father, and putative father of the child, if not the same person as the legal father, are terminated by a circuit court order entered pursuant to KRS Chapter 625; and

(c) Child is placed with the child-placing agency for the purpose of adoption placement.

(2) A child's parent shall not be induced to terminate parental rights by a promise of financial aid or other consideration.

(3)(a) A child-placing agency licensed by the cabinet shall not use the authority authorizing the agency to place a child for adoption to facilitate an adoptive placement planned by a doctor, lawyer, clergyman, or person or entity outside the child-placing agency.

(b) The child-placing agency shall comply with provisions of 922 KAR 1:010.

(4) The child-placing agency shall obtain the following:

(a) A developmental history of the adoptive child to include:

1. Birth and health history;

2. Early development;

3. Characteristic ways the child responds to people and situations;

4. Any deviation from the range of normal development;

5. The experiences of the child prior to the decision to place the child for adoption;

6. Maternal attitude during pregnancy and early infancy;

7. Continuity of parental care and affection;

8. Out-of-home placement history;

9. Separation experiences; and

10. Information about the mother, legal father, and putative father, if not the same person as the legal father, and family background:

a. That may affect the child's normal development in order to determine the presence of a significant hereditary factor or pathology; and

b. Including an illness of the biological mother or father;

(b) A social history of the biological or legal parent, to include:

1. Name;

2. Age;

3. Nationality;

4. Education;

5. Religion or faith; and

6. Occupation;

(c) Information obtained from direct study and observation of the child by a:

1. Social services worker; and

2. Physician or other health professional;

(d) If indicated, information obtained from direct study and observation of the child by a:

1. Foster parent;

2. Nurse;

3. Psychologist; or

4. Other consultants; and

(e) Information from the mother, if possible, identifying the biological father, or legal father, if different from the biological father, for the purpose of:

1. Determining the father's parental rights; and

2. Establishment of possible hereditary endowments.

(5) If either biological or legal parent is unavailable, unwilling, or unable to assist with the completion of information necessary to comply with KRS 199.520 and 199.572, the child-placing agency shall document information, to the extent possible, from the existing case record.

(6) Prior to finalization of the adoptive placement, a licensed physician or other health professional shall make a medical examination to determine:

(a) The state of the child's health;

(b) Any significant factor that may interfere with normal development; and

(c) The implications of any medical problem.

(7) The condition under which an adoptive home agrees to accept the child shall be decided upon, prior to placement of the child. The written agreement between the child-placing agency and the adoptive home shall embody the following provisions:

(a) The adoptive home shall agree to:

1. Comply with KRS 199.470;

2. File an adoptive petition at a time agreeable to the adoptive home and the child-placing agency; and

3. Permit supervision by the child-placing agency in accordance with the child-placing agency's policies and procedures:

a. After placement; and

b. Preceding a final judgment of adoption by the circuit court;

(b) The child-placing agency shall be responsible for providing the adoptive home with written information regarding the child's:

1. Background;

2. Medical history;

3. Current behavior; and

4. Medical information necessary to comply with KRS 199.520(4)(a); and

(c) The adoptive home and the child-placing agency shall agree that the child may be removed from the placement, at the

request of either party, before the filing of the adoptive petition.

(8)(a) Preplacement visits shall be arranged for the adoptive home and a child.

(b) The pattern and number of visits shall be based on the child's:

1. Age;

2. Development; and

3. Needs.

(9) During preparation, the child-placing agency shall discuss the child's readiness to accept the selected placement with the child, in accordance with the child's age and ability to understand.

(10)(a) Unless the child-placing agency and, if applicable, the state agency which has custody of a child belonging to a sibling group, determines that it is more beneficial for siblings to be placed in separate adoptive homes, siblings who have had a relationship with each other shall be placed together.

(b) If siblings have been separated in placements:

1. The case record shall reflect a valid basis for the separation;

2. The decision to separate siblings shall be made by the executive director of the child-placing agency; and

3. Continued contact between siblings shall be maintained, if possible.

(11) A child-placing agency shall comply with Section 6(1)(b) of this administrative regulation during the process of placing a child in a prospective adoptive home.

Section 20. Supervision of an Adoptive Placement of a Child Not in the Custody of the Cabinet. (1) For a child not in the custody of the cabinet, the child-placing agency placing a child shall remain responsible for the child until the adoption has been granted. This responsibility shall involve the following:

(a) Two (2) meetings by the social services worker with the child and the adoptive home, including both adoptive parents if not a single parent adoption, one (1) visit of which shall be in the adoptive home before filing of the adoption petition;

(b) The continuation of case management, visits, and telephone contacts based upon the needs of the child until the adoption is legally granted; and

(c) Awareness of a change in the adoptive home including health, education, or behavior.

(2) Upon request of the cabinet, the child-placing agency shall:

(a) Provide information pursuant to KRS 199.510, as necessary to report to the court to proceed with adoption;

(b) Prepare and provide the original confidential report to the court; and

(c) Forward to the cabinet a copy of:

1. The confidential report that was provided to the court; and

2. Information required by KRS 199.520 and 199.572.

(3) If the court finds the adoptive home to be unsuitable and refuses to grant a judgment, the child-placing agency shall remove the child from the home.

Section 21. Maintenance of Adoptive Case Record. (1) The child-placing agency shall maintain a case record from the time of the application for services through the completed legal adoption and termination of child-placing agency services for:

(a) A child accepted for care and the child's family; and

(b) An adoptive applicant.

(2) The case record shall contain material on which the child-placing agency decision may be based and shall include or preserve:

(a) Information and documents needed by the court;

(b) Information about the child and the child's family;

(c) A narrative or summary of the services provided with a copy of legal and other pertinent documents; and

(d) Information gathered during the intake process including the following:

1. A description of the situation that necessitated placement of the child away from the child's family or termination of parental rights;

2. A certified copy of the order of the circuit court terminating parental rights and committing the child to the child-placing agency for the purpose of adoption;

3. Verification of the child's birth record and the registration number;

4. A copy of the child's medical record up to the time of placement;

5. A copy of the required evaluation of the adoptive placement;

6. Date of adoptive placement;

7. A statement of the basis for the selection of this adoptive home for the child;

8. A record of after-placement services with dates of:

a. Visits;

b. Contacts;

c. Observations;

d. Filing of petition;

e. Granting of judgments; and

f. Other significant court proceedings relative to the adoption;

9. Child's adoptive name; and

10. Verification of preparation and orientation and annual training in accordance with Section 18 of this administrative regulation.

(3) If there is a need to share background information with a party to a completed adoption, or to have the benefits of information from a closed adoption record to offer services following completion of an adoption, the child-placing agency shall comply with KRS 199.570.

(4) Records on adoption that contain pertinent information shall be:

(a) Maintained indefinitely following final placement of a child; and

(b) Sealed and secured from unauthorized scrutiny.

(5) A child-placing agency shall submit adoptive case records to the cabinet, if:

(a) The child-placing agency closes; and

(b) No other operational governing entity exists.

Section 22. Closure of an Approved Foster or Adoptive Home. (1) A foster or adoptive home shall be closed if:

(a) Sexual abuse or exploitation by a resident of the household is substantiated;

(b) Child maltreatment by a resident of the household occurs that is serious in nature or warrants the removal of a child;

(c) A serious physical or mental illness develops that may impair or preclude adequate care of the child in the home; or

(d) The home fails to meet requirements of this administrative regulation in:

1. Section 4(3)(e), (g), and (i) through (s), and Section 4(5) through (11) of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;

2. Sections 6(9)(a) and 12 of this administrative regulation, with regard to placement and case management, if the home is approved as a foster home;

3. Sections 5, 7, or 10 of this administrative regulation, with regard to annual training, if the home is approved as a foster home. An exception to this subparagraph may be granted by the Division of Protection and Permanency director or designee for a foster parent caring for a child in the custody of the cabinet if it is in the best interest of a child placed in the foster home to allow the exception. If an exception is approved for a foster parent caring for a child in the custody of the cabinet, a new or additional child shall not be placed in the home until the foster parent has met the training requirement; and

4. Section 18(3) of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.

(2) A foster or adoptive home may be closed:

(a) In accordance with the terms specified in the written agreement between the child-placing agency and the foster or adoptive home; or

(b) In accordance with the terms specified in the written contract between the cabinet and the child-placing agency.

(3) If closure of an approved foster or adoptive home is necessary, a child-placing agency shall:

(a) State the reason for the closure in a personal interview with the family unless the family refuses or declines the personal interview; and

(b) Document the reason in the foster or adoptive home's case record.

(4) A child-placing agency shall confirm the decision to close a home in a written notice to the foster or adoptive parent. The notice shall be provided within fourteen (14) calendar days of the interview with a foster or adoptive parent. If the foster or adoptive parent refuses to be interviewed, the notice shall be provided within fourteen (14) calendar days of the foster or adoptive parent's refusal.

(5) The written notice shall include:

(a) Date of approval and termination; and

(b) Indication of whether the closure was at the request of the foster parents or the agency.

Section 23. Foster Care Registry. (1) A child-placing agency shall register a foster home with the cabinet, approved by the child-placing agency, to include medically complex foster homes and therapeutic foster care homes.

(2) Information shall be provided to the cabinet in a format prescribed by the cabinet, to include:

(a) The foster parent's:

1. Full name;

2. Social Security number; and

3. Address, including county of residence;

(b) The child-placing agency's:

1. Name; and

2. Mailing address;

(c)1. The date the foster home was:

a. Approved;

b. Denied;

c. Withdrawn; or

d. Closed; and

2.The reason for the change in the foster home status; and

(d) Whether the foster home is currently active or inactive.

(3) Paragraph (c) of subsection (2) shall have a delayed implementation due to the integration of technology, but shall be effective no later than October 30, 2019.

Section 24. Emergency Preparedness. Each foster home shall submit an emergency preparedness plan to the private agency that would allow the agency to identify, locate, and ensure continuity of services to children who are in the custody or control of the cabinet or agency.

Section 25[~~24~~]. Incorporation by Reference. (1) The "DPP-112B, Private Child-Placing Agency Placement Exception Request", 4/19[~~10/15~~], is incorporated by reference.

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

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 1, 2019 at 1 p.m.

CONTACT PERSON: Chase Coffey, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, phone (502) 564-3703, email Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards for child-placing agencies who provide contracted foster care placements for children in the custody of the cabinet.

(b) The necessity of this administrative regulation: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services (CHFS) to promulgate, administer, and enforce programs mandated by federal law or to qualify for the receipt of federal funds. KRS 199.640(5)(a) requires CHFS to promulgate administrative regulations establishing basic standards of care and service for child-caring and child-placing agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is necessary to implement programs mandated by federal law and to qualify for the receipt of federal funds, establishes basic standards of care and service for child-placing agencies, and implements the provision of KRS Chapter 605.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation conforms to KRS 194A.050(1), 199.640(5)(a), and 605.150(1) by establishing standards for child-placing agencies.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation incorporates federal model standards into the certification and approval process of foster care and adoptive homes contracted through child-placing agencies. Unless an exception is permitted, the maximum number of children residing in a foster home is being amended to six rather than five, in accordance with section 472(c)(1)(A)(ii)(III) of the Family First Prevention Services Act. The amendment also includes updates needed for consistency between public and private foster and adoptive homes and for compliance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure child-placing agencies incorporate federally issued model standards for foster and adoptive homes into their processes and procedures.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the cabinet to promulgate, administer, and enforce programs mandated by federal law or to qualify for the receipt of federal funds. KRS 199.640(5)(a) requires the cabinet to promulgate administrative regulations establishing basic standards of care and service for child-caring and child-placing agencies. This amendment incorporates federal standards into the procedures of child-placing agencies.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will ensure that child placing agencies make the necessary changes to the approval and certification process of foster and adoptive homes to meet federal standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently over 9,000 children in foster care and approximately 5,000 foster/adoptive homes. In 2018, the cabinet substantiated or found that services were needed for 32,411 unique children (TWS-M272F, 1/2/19). Private child-placing agencies are a partner to the cabinet to ensure that children who are in out of home care have a safe and secure environment when they are no longer able to remain in their home.

(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: Private child-placing agencies will need to require potential foster and adoptive parents to submit to the requirements being added into this administrative regulation to become certified. Additional requirements include demonstrating functional literacy, refraining from smoking in the presence of a child for whom a physician recommends a smoke-free environment, and the development of an emergency prepared plan.

(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 child-placing agencies as a result of the amendment.

(c) As a result of compliance, what benefits will accrue to the

entities identified in question (3): Certified foster and adoptive homes will be in compliance with federal standards.

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

(a) Initially: There is no cost to the administrative body.

(b) On a continuing basis: There is no cost to the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this administrative regulation are supported through funds under Title IV-E of the Social Security Act and General Funds.

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

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 677(a), 14901-14954

2. State compliance standards. KRS 194A.050(1), 199.640(5)(a), 605.150(1)

3. Minimum or uniform standards contained in the federal mandate. 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 677(a), 14901-14954

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.640(5)(a), 605.150(1), 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 677(a), 14901-14954

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no new revenues for the first year.

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

(c) How much will it cost to administer this program for the first year? The administrative body projects costs associated with implementation of this administrative regulation will be within existing appropriations for the first year. General Fund and Title IV-E funds are used in the implementation of this program.

(d) How much will it cost to administer this program for subsequent years? The administrative body projects costs associated with the implementation of this administrative regulation will be within existing appropriations for subsequent years. General Fund and Title IV-E funds are used in the implementation of 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:

STATEMENT OF EMERGENCY
922 KAR 1:350E

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)1 to preserve the health and welfare of vulnerable children in the custody of the Cabinet for Health and Family Services. The administrative regulation implements the model licensing standards for foster family homes, which are required by federal law Pub.L. 115-123. The standards must be incorporated into the state Title IV-E plan by April 1, 2019. The administrative regulation establishes the criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children. An ordinary administrative regulation would not allow sufficient time to implement the model licensing standards for foster homes in accordance with federal law Pub.L. 115-123. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to the emergency administrative regulation.

MATTHEW G. BEVIN, Governor
ADAM M. MEIER, Secretary

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

922 KAR 1:350E. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers.

RELATES TO: KRS 2.015, 61.870-61.884, 194A.005(1), 194A.050(1), 194A.060, 199.011, 199.472(1), 202A.011(12), 258.015, 258.035, 311.720(12)[~~311.720(9)~~], 311.840(3), 314.011(5), (7), (9), 527.100, 527.110, 600.020, 605.090, 605.100(1), 610.110, 620.030, 620.050, 620.140(1)(d), 620.360, Chapter 625, 8 U.S.C. 1151, 1181, 16 C.F.R. 1219-1220, 1632-1633, 42 C.F.R. 435.407, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 672, 677

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472(1), 605.100(1)

EFFECTIVE: April 1, 2019

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary for the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 605.100(1) requires the cabinet to arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics. KRS 199.472(1) requires[~~authorizes~~] the cabinet to promulgate administrative regulations to establish the process of

determining an applicant's capacity for foster or adoptive parenthood. This administrative regulation establishes criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children.

Section 1. Definitions. (1) "Adoptive home" means a home in which a parent is approved by the cabinet to provide services as specified in Section 2(12) of this administrative regulation.

(2) "Applicant" means an individual or family subject to approval by the cabinet as a foster or adoptive home.

(3) "Cabinet" is defined by KRS 194A.005(1) and 600.020(7)[~~600.020(6)~~].

(4) "Care Plus" means a foster care program for a child who is determined to have specialized care needs as specified in Section 5 of this administrative regulation.

(5) "Child" means:

(a) A child as defined by KRS 199.011(4) and 600.020(9)[~~600.020(8)~~];

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(6) "Child specific foster home" means an individual or family subject to approval by the cabinet as a foster family home for a relative or fictive kin placement.

(7) "Child with medical complexity" means a child who has a medical condition in accordance with Section 4(1)(b) of this administrative regulation.

(8)[~~(7)~~] "Commissioner" means commissioner of the Department for Community Based Services.

(9) "Department" means the Department for Community Based Services.

(10)[~~(8)~~] "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(10)[~~199.011(9)~~] and 600.020(30)[~~600.020(28)~~], if referring to a physical structure; or

(b) If referring to an individual, any individual approved as a foster parent by the cabinet to provide services as specified in Section 2(12) of this administrative regulation.

(11)[~~(9)~~] "Health professional" means a person actively licensed as a:

(a) Physician as defined by KRS 311.720(12)[~~311.720(9)~~];

(b) Physician assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

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

(12)[~~(10)~~] "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker.

(13)[~~(11)~~] "Independent living services" means services provided to an eligible child to assist the child in the transition from the dependency of childhood to living independently.

(14)[~~(12)~~] "Placement" means the physical change in the location and living arrangement of a child in the custody of the cabinet removed from the child's home of origin.

(15)[~~(13)~~] "Respite care" means temporary care provided by a provider, as specified in Section 17 of this administrative regulation, to provide relief to the foster or adoptive parents with the expectation of a child's return to the current foster or adoptive home.

Section 2. General Requirements for a Foster or Adoptive Parent. (1)(a) Unless an exception is approved pursuant to paragraph (b) of this subsection by designated cabinet staff, a foster or adoptive parent applicant shall be at least twenty-one (21) years of age.

(b) A foster or adoptive parent applicant between eighteen (18) and[~~to~~] twenty-one (21) years of age may be approved as a foster or adoptive parent if:

1. The foster or adoptive parent applicant is related to the child under the custodial control of the cabinet;

2. The foster or adoptive parent applicant can meet the needs of the child; and

3. Cabinet staff determines the placement is in the best interest of the child.

(2) A foster or adoptive parent applicant shall provide proof of the applicant's United States citizenship or legal immigrant status, as described in 8 U.S.C. 1151, 8 U.S.C. 1181, and 42 C.F.R. 435.407.

(3) A department employee who provides protection and permanency services may apply to adopt a child in the care and custody of the cabinet if the commissioner approves the employee to adopt and the adoption is in the best interest of the child.

(4)(a) A department employee who provides protection and permanency services shall be approved as[~~prohibited from becoming~~] a respite care provider or foster parent for a child in the care and custody of the cabinet if prior approval[~~, regardless of the child's residence, unless it is approved~~] by the commissioner or designee is granted in writing through the service region administrator or designee in the region of employment[~~because the employee was a foster parent or respite care provider for the child when employment with the department protection and permanency services began~~].

(b) If approval is granted, the department shall:

1. Ensure the employee completes pre-service training outside the region of employment;

2. Assign a social services worker outside of the applicant employee's region of employment to complete the home study;

3. Maintain the case outside of the applicant employee's region of employment; and

4. Ensure that the employee shall not accept the placement of a child from within the region of employment unless:

a. The employee is related to the child; or

b. The employee is determined to be fictive kin as the result of a relationship developed outside of employment prior to the child being placed in the custody of the cabinet.

(5) A married couple may apply to become foster or adoptive parents.

(6) A single, unmarried person may apply to become a foster or adoptive parent.

(7) The decision to foster or adopt a child shall be agreed to by each adult member of the applicant's household.

(8)(a) Each foster or adoptive applicant and adult member of the applicant's family shall submit a DPP-107, Health Information Required for Foster or Adoptive Parents, Applicants, or Adult Household Members, completed:

1.[~~(a)~~] By a health professional who is not a member of the applicant's household, based upon health information within the past year, documenting:

a.[~~1.~~] The applicant's general health, including that the applicant is free of communicable or infectious disease or a health condition that presents a health or safety risk to a child placed in the applicant's home; and

b.[~~2.~~] That there are no known health factors that would interfere with the applicant's ability to become a foster or adoptive parent;

2.[~~and (b)~~] As part of:

a.[~~1.~~] The initial application;

b.[~~2.~~] The annual re-evaluation; or

c.[~~3.~~] A foster or adoptive home review pursuant to Section 13 of this administrative regulation; and

3. By all household members in which the household member discloses mental health and substance abuse issues, including any history of drug or alcohol abuse or treatment.

(b) The department shall require further documentation or evaluation to determine the suitability of the home if there is an indicator of current or past mental health or substance abuse issues.

(9) Each foster or adoptive parent applicant shall submit a DPP-108, Health Information Required for Foster or Adoptive Parents or Applicants Regarding Dependent Children, for each child member of the applicant family.

(10) A foster or adoptive parent applicant shall have a source of income:

(a) Sufficient to meet the applicant's household expenses; and

(b) Separate from:

1. Foster care reimbursement; or

2. Adoption assistance.

(11) Unless specified in a contract between the cabinet and a child welfare agency that provides foster care services, a foster or adoptive parent shall accept a child for foster care only from the cabinet.

(12) An approved foster or adoptive parent shall be willing to:

(a) Provide foster care services for a child placed in out-of-home care by the cabinet;

(b) Adopt a child:

1. Whose parent's parental rights have been terminated; and

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

(c) Provide respite care for a child under the custodial control of the cabinet; or

(d) Provide any combination of the services described in paragraphs (a) through (c) of this subsection.

(13) A foster or adoptive applicant shall provide to the cabinet:

(a)1. The names of three (3) personal references including[~~who~~]:

a. One (1) relative reference; and

b. Two (2) non-relative references.[~~1. Are not related to the applicant; and~~]

2. The references required by subparagraph 1. of this paragraph[~~a.~~] shall:

a. Be interviewed by cabinet staff in person or by telephone; or

b.[~~Shall~~] Provide letters of reference for the applicant; and

(b) Two (2) credit references or a credit report.

(14) Unless a documented exception exists and is approved by designated cabinet staff due to inaccessibility, each adult child of the foster or adoptive parent applicant who does not live in the home shall be interviewed by cabinet staff in person or by telephone regarding the applicant's parenting history.

(15) If applicable, verification shall be obtained from the foster or adoptive parent applicant regarding:

(a) Previous divorce;

(b) Death of a spouse; and

(c) Present marriage.

(16) A foster or adoptive parent applicant who does not have custody of his or her own child shall provide:

(a) A copy of the visitation order, if applicable;

(b) A copy of the child support order, if applicable; and

(c) Proof of current payment of child support, if applicable.

(17) A foster or adoptive parent applicant and any member of the applicant's household shall submit to the background checks required by[~~in accordance with~~] 922 KAR 1:490.

(18) The cabinet shall perform background checks in accordance with criteria established in 922 KAR 1:490.

Section 3. Home Environment. (1) The foster or adoptive parent shall request written approval from designated cabinet staff to provide services as a:

(a) Certified provider of supports for community living in accordance with 907 KAR 12:010[~~1:145~~];

(b) Certified family child care home in accordance with 922 KAR 2:100; or

(c) Provider of child-care center services in accordance with 922 KAR 2:090.

(2) If the foster or adoptive home adjoins a place of business open to the public, potential negative impact on the family and the child shall be examined including the:

(a) Hours of operation;

(b) Type of business; and

(c) Clientele.

(3) The foster or adoptive parent shall have access to:

(a) Reliable transportation;

(b) School;

(c) Recreation;

(d) Medical care; and

(e) Community facilities.

(4) A foster or adoptive parent who drives shall:

(a) Possess a valid driver's license;

(b) Possess proof of liability insurance; and

(c) Abide by passenger restraint laws.

(5)(a) [~~No~~] More than four (4) children, including the foster or adoptive parent's own children, shall not share a bedroom, with thorough consideration given to each child's age, gender, and background.

(b) Children of different genders over the age of five (5) shall not share a bedroom except as approved by designated department staff if:

1. Siblings are placed together; and

2. There are no high-risk behaviors.

(6) Each child shall have:

(a) A separate bed that is age and size appropriate for the child; or

(b) If the child is under age one (1), a crib that meets Consumer Products Safety Commission standards pursuant to 16 C.F.R. 1219-1220.

(7) A child's mattress shall:

(a) Meet current Consumer Products Safety Commission Standards in 16 C.F.R. Parts 1632 and 1633;

(b) Be in good repair; and

(c) Have a clean fitted sheet that shall be changed:

1. Weekly; or

2. Immediately if it is soiled or wet.

(8) Except as approved by designated cabinet staff, a foster or adoptive parent shall not share a bedroom with a child under the custodial control of the cabinet unless necessary due to the needs of the child.

(9) A bedroom used by a child under the custodial control of the cabinet shall be comparable to other bedrooms in the house.

(10) The physical condition of the foster or adoptive home shall:

(a) Not present a hazard to the safety and health of a child;

(b) Be well heated and ventilated;

(c) Comply with state and local health requirements regarding water and sanitation;[~~and~~]

(d) Provide access to indoor and outdoor recreation space appropriate to the developmental needs of a child placed in the foster or adoptive home;

(e) Provide functioning kitchen facilities; and

(f) Provide a functioning bathroom, including a:

1. Toilet;

2. Sink; and

3. Bathtub or shower.

(11) The following shall be inaccessible to a child:

(a) Medication, unless an exception is granted pursuant to subsection (12) of this section;

(b) Alcoholic beverage;

(c) Poisonous or cleaning material;

(d) Ammunition; and

(e) Firearms in accordance with KRS 527.100 and 527.110.

(12) An exception may be provided by designated cabinet staff to subsection (11)(a) of this section if:

(a)1. The child is approved by a health care professional to self-administer medicine under the supervision of the foster or adoptive parent; or

2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and

(b) Measures are taken to prevent unauthorized access by another child in the same home.

(13) Any household animal shall be vaccinated in accordance with KRS 258.015 and 258.035.

(14) A dangerous animal shall not be allowed near the child.

(15) First aid supplies[~~with unexpired dates~~] shall be available and stored in a place easily accessible to an adult.

(16) A working telephone shall be accessible[~~available in the home~~].

(17) The home shall be equipped with a working smoke alarm within ten (10) feet of each bedroom and on each floor of the home.

(18) A home with gas heating or appliances shall be equipped with a working carbon monoxide detector.

Section 4. Medically Complex Foster or Adoptive Home. (1) An applicant shall be approved by cabinet staff as a medically complex home if the foster or adoptive parent:

(a) Meets the requirements in Sections 2 and 3 of this administrative regulation, except for Section 2(10), which may be considered as an exclusion on a case-by-case basis by designated cabinet staff based on the best interests or needs of the child;

(b) Cares for a child in the custody of the cabinet who is determined to be medically complex by designated cabinet staff due to:

1. Significant medically oriented care needs related to a serious illness or condition diagnosed by a health professional that may become unstable or change abruptly, resulting in a life-threatening event;

2. A chronic condition that is expected to be life-long and progressive and to require extensive services;

3. An acute, time-limited condition requiring additional oversight; or

4. A severe disability that requires the routine use of medical devices or assistive technology to compensate for the loss of a vital body function needed to participate in activities of daily living and significant and sustained care to avert death or further disability;

(c) Is a primary caretaker who is not employed outside the home, except as approved by designated cabinet staff and based on the needs of the child;

(d) Completes training in accordance with 922 KAR 1:495, Section 4;

(e) Receives training with documentation of completion from a health professional in how to care for the specific child with medical complexity who shall[~~will~~] be placed in the foster or adoptive parent's care;

(f) Maintains current certification in:

1. Infant, child, and adult CPR; and

2. First aid; and

(g) Has a home within:

1. One (1) hour of a medical hospital with an emergency room; and

2. Thirty (30) minutes of a local medical facility.

(2) Except for a sibling group or unless approved by designated cabinet staff in accordance with Section 16 of this administrative regulation, more than four (4) children, including the foster or adoptive parent's own children, shall not reside in a medically complex foster or adoptive home.

(3) Unless an exception is approved pursuant to Section 16(2) of this administrative regulation and a medically complex foster or adoptive home has daily support staff to meet the needs of a child with medical complexity:

(a) A one (1) parent medically complex foster or adoptive home shall:

1. Not care for more than one (1) child with medical complexity; and

2. Demonstrate access to available support services; and

(b) A two (2) parent medically complex foster or adoptive home shall:

1. Not care for more than two (2) children with medical complexity; and

2. Demonstrate access to available support services.

(4) Unless an exception pursuant to Section 16(2) of this administrative regulation is approved, a child with medical complexity shall be placed in an approved medically complex foster or adoptive home.

(5) Unless the home is closed[,] pursuant to Section 14 of this administrative regulation, an approved medically complex foster or adoptive parent shall receive annual reapproval by the cabinet as a medically complex home if the parent:

(a) Annually completes training specified in 922 KAR 1:495, Section 4; and

(b) Continues to meet the requirements of this section.

(6) An approved medically complex foster or adoptive parent shall cooperate in carrying out the child's health plan.

Section 5. Care Plus Home. (1) An applicant shall be approved by cabinet staff as a care plus parent if the foster or adoptive parent:

(a) Meets the requirements of Sections 2 and 3 of this administrative regulation, except for Section 2(10) which may be considered as an exclusion on a case-by-case basis by designated cabinet staff based on the best interests or needs of the child;

(b) Agrees to care for a child in the custody of the cabinet approved by cabinet staff as a care plus child because the child:

1. Has a diagnosed emotional or behavioral problem;

2. Is due to be released from a treatment facility;

3. Displays aggressive, destructive, or disruptive behavior;

4. Is at risk of being placed in a more restrictive setting;

5. Is at risk of institutionalization; or

6. Has experienced numerous placement failures;

(c) Is a primary caretaker who is not employed outside the home, unless the cabinet determines that the child's needs continue to be met;

(d) Completes training in accordance with 922 KAR 1:495, Section 6;

(e) Agrees to maintain a weekly[~~daily~~] record of the care plus child's activities and behaviors; and

(f) Agrees to attend case planning conferences.

(2) Unless an exception is approved pursuant to Section 16(2) of this administrative regulation and the care plus home parent can demonstrate access to available support services:

(a) No more than four (4) children, including the foster or adoptive parent's own children, shall reside in a care plus home;

(b) A one (1) parent care plus home shall not care for more than one (1) care plus child as described in subsection (1)(b) of this section; and

(c) A two (2) parent care plus home shall not care for more than two (2) care plus children as described in subsection (1)(b) of this section[~~, including the care plus foster or adoptive parent's own children~~].

(3) Unless the home is closed pursuant to Section 14 of this administrative regulation, an approved care plus foster or adoptive parent shall receive annual reapproval by the cabinet as a care plus home, if the parent:

(a) Annually completes training in accordance with 922 KAR 1:495, Section 6;

(b) Submits to a review of the parent's:

1. Strengths and needs;

2. Records maintained on services provided to the child; and

3. Ability to meet the goals established for the child; and

(c) Continues to meet the requirements of this section.

Section 6. Preparation and Selection of a Foster or Adoptive Home. (1) The cabinet shall recruit a foster or adoptive home and approve the home prior to the placement of a child, except in the case of a child specific placement with a relative or fictive kin caregiver.

(2) Prior to approval as a foster or adoptive parent, an applicant shall complete training requirements in accordance with 922 KAR 1:495.

(3) If a new adult moves into an approved foster or adoptive home where a child is already placed by the cabinet, the child may remain and additional children may be placed if the new adult:

(a) Completes training in accordance with subsection (2) of this section within six (6) months of entering the home; and

(b) Meets the requirements specified in Sections 2 and 3 of this administrative regulation.

(4) An adult child or incapacitated person who resides in the foster or adoptive home shall not be required to complete training in accordance with 922 KAR 1:495 if that individual shall[~~will~~] not be responsible for routine daily care of a child placed in the home by the cabinet.

(5) The cabinet shall not be obligated to grant foster or adoptive home approval or placement of a specific child to an individual or family that completes pre-service training.

(6) In addition to completion of training in accordance with 922 KAR 1:495, at least two (2) family consultations shall be conducted by cabinet staff in the home of an applicant, to include:

(a) Documentation that the requirements in Sections 2 and 3 of

this administrative regulation have been met;

(b) Documentation that a personal interview with each member of the applicant's household has been completed;

(c) Discussion of the attitude of each member of the applicant's household toward placement of a child;

(d) Observation of the functioning of the applicant's household, including interpersonal relationships and patterns of interaction; and

(e) Assurance that the applicant is willing to accept a child's relationship with the child's family of origin.

(7) An applicant approved as a foster or adoptive parent or respite care provider by another state or by a child-placing agency as defined in[~~described by~~] KRS 199.011(6)[~~199.011(7)~~] shall:

(a) Meet the requirements provided within Sections 2 and 3 of this administrative regulation;

(b) Be assessed by cabinet staff to ascertain the applicant's level of skill as a potential Kentucky foster or adoptive parent;

(c) Provide verification of the closure and a statement to indicate whether the closure was at the request of the foster or adoptive parent, the other state, or the agency; and

(d) Not be required to complete training in accordance with 922 KAR 1:495 for approval as a Kentucky foster or adoptive parent if cabinet staff:

1. Determine that the applicant possesses the necessary skills for fostering; and

2. Obtain records and recommendation from the other state or child-placing agency.

(8) Following initial training as specified in 922 KAR 1:495, if cabinet staff determines that an applicant or adult household member lacks the necessary skills to become a foster or adoptive parent, an individualized training curriculum shall be developed to fulfill unmet training needs.

(9)(a) A foster or adoptive parent shall request the recommendation of cabinet staff prior to enrolling in training specified in 922 KAR 1:495, Section 4(1) or 6(1); and

(b) Cabinet staff may recommend the foster or adoptive parent to receive training specified in 922 KAR 1:495, Section 4(1) or 6(1), if the parent possesses the aptitude to care for a child described in Section 4(1)(b) or 5(1)(b) of this administrative regulation.

Section 7. Completion of the Foster or Adoptive Approval Process. (1) Designated cabinet staff in a supervisory role shall approve a foster or adoptive applicant if:

(a) The applicant provides written and signed information pertaining to family history and background;

(b) The applicant completes training requirements as required by 922 KAR 1:495;

(c) The information required in Section 2(8) through (10) and (13) through (17) of this administrative regulation has been obtained, unless a waiver has been granted for a child specific placement with a relative or fictive kin caregiver;

(d) Designated cabinet staff recommends approval; and

(e) The applicant's ability to provide a foster, adoptive, or respite care service is consistent with the:

1. Cabinet's minimum foster or adoptive home requirements established in this administrative regulation; and

2. Needs of the families and children served by the cabinet.

(2) If the designated cabinet staff determines that an applicant does not meet the minimum requirements for approval as a foster or adoptive parent, the cabinet shall recommend that the applicant withdraw the request.

Section 8. Denial of a Foster or Adoptive Home Request. (1) Designated cabinet staff shall notify an applicant, in writing, if the request to become a foster or adoptive parent is not recommended for one (1) of the following reasons:

(a) The applicant is unwilling to withdraw the request to become a foster or adoptive parent after receiving a recommendation to withdraw; or

(b) The applicant desires to adopt, but is unwilling to adopt a child under the custodial control of the cabinet.

(2) If the foster or adoptive applicant disagrees with the cabinet's recommendation to not accept the applicant as a foster or adoptive home, designated cabinet staff shall review the request to become a foster or adoptive parent and issue a final written determination regarding the cabinet's recommendation.

Section 9. Expectations of a Foster or Adoptive Home. A foster or adoptive home providing services for a child in the custody of the cabinet shall:

(1) Provide a child placed by the cabinet with a family life, including:

(a) Nutritious food;

(b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(c) Affection;

(d) Life skills development, including demonstrating functional literacy;

(e) Recreational opportunities;

(f) Educational opportunities;

(g) Nonmedical transportation;

(h) Independent living services for a child age twelve (12) and older; [~~and~~]

(i) Opportunities for development consistent with their religious, ethnic, and cultural heritage;

(j) Adequate supervision; and

(k) Refraining from smoking in the direct presence of a child for whom their physician recommends, in writing, a smoke-free environment.

(2) Permit cabinet staff to visit;

(3) Share with cabinet staff pertinent information about a child placed by the cabinet;

(4) Comply with the general supervision and direction of the cabinet concerning the care of a child placed by the cabinet;

(5) Report immediately to the cabinet if there is a:

(a) Change of address;

(b) Hospitalization or life-threatening accident or illness of a child placed by the cabinet;

(c) Change in the number of people living in the home;

(d) Significant change in circumstances in the foster or adoptive home, such as income loss, marital separation, or other household stressor;

(e) Child placed in the home that is absent without official leave;

(f) Suicide attempt of a child placed by the cabinet; or

(g) Criminal activity by the child placed by the cabinet;

(6) Notify the cabinet if:

(a) Leaving the state with a child placed by the cabinet for more than twenty-four (24) hours; or

(b) A child placed by the cabinet is to be absent from the foster or adoptive home for more than twenty-four (24) hours;

(7) Cooperate with the cabinet if a contact is arranged by cabinet staff between a child placed by the cabinet and the child's birth family including:

(a) Visits;

(b) Telephone calls; or

(c) Mail;

(8) Surrender a child to the authorized representative of the cabinet upon request;

(9) Keep confidential all personal or protected health information as shared by the cabinet, in accordance with KRS 194A.060, 620.050, and 45 C.F.R. Parts 160 and 164 concerning a child placed by the cabinet or the child's birth family;

(10) Support an assessment of the service needs of a child placed by the cabinet;

(11) Participate in case-planning conferences concerning a child placed by the cabinet;

(12) Cooperate with the implementation of the permanency goal established for a child placed by the cabinet;

(13) Notify the cabinet at least fourteen (14) calendar days in advance of the home's intent to become certified to provide foster care or adoption services through a private child-placing agency in accordance with 922 KAR 1:310;

(14) Treat a child placed by the cabinet with dignity;

(15) Arrange for respite care services in accordance with Section 10(5) of this administrative regulation;

(16) Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;

(17) Facilitate the delivery of medical care to a child placed by the cabinet as needed, including:

(a) Administration of medication to the child and daily documentation of the medication's administration; and

(b) Physicals and examinations for the child;

(18) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030;

(19) Comply with KRS 620.360(2); and

(20) Have appeal rights in accordance with 922 KAR 1:320.

Section 10. Reimbursements for Foster Homes. (1) Types of per diem reimbursement. The cabinet shall approve a foster home as specified in Sections 2 and 3 of this administrative regulation and authorize a per diem reimbursement as established in this subsection.

(a) A child specific per diem reimbursement shall be made to a foster home that:

1. Has been approved pursuant to Section 7 of this administrative regulation; and

2. Meets initial training requirements for a child specific foster home.

(b) A basic per diem reimbursement shall be:

1. Based on the age of a child placed by the cabinet in the foster home; and

2. Made to the foster home that meets[~~:~~

~~a. Meets criteria specified in paragraphs (b) through (j) of this subsection; and~~

~~b. Meets~~] annual training requirements in accordance with 922 KAR 1:495, Section 3. (c)[~~(b)~~] An advanced per diem reimbursement shall be:

1. Made to a foster home that has:

a. Been approved for two (2) years as a foster or adoptive parent; and

b. Met training requirements in accordance with 922 KAR 1:495, Section 3; and

2. Based on the age of the child placed by the cabinet.

(d)[~~(c)~~] A basic medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation; and

2. Provides for the care of a child with medical complexity.

(e)[~~(d)~~] An advanced medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation;

2. Has been approved for two (2) years as a foster or adoptive parent;

3. Has met training requirements in accordance with KRS 922 KAR 1:495, Section 3; and

4. Provides for the care of a child with medical complexity.

(f)[~~(e)~~] A degreed medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation;

2. Maintains a current license as a health professional; and

3. Provides for the care of a child with medical complexity.

(g)[~~(f)~~] A basic care plus foster home per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 5 of this administrative regulation; and

2. Provides for the care of a child described in Section 5(1)(b) of this administrative regulation.

(h)[~~(g)~~] An advanced care plus foster home per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 5 of this administrative regulation;

2. Has been approved for two (2) years as a foster or adoptive parent;

3. Has met training requirements in accordance with 922 KAR 1:495, Section 3(1); and

4. Provides for the care of a child described in Section 5(1)(b) of this administrative regulation.

(i)[~~(h)~~] A specialized medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation; and

2. Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition.

(j)[~~(i)~~] A degreed specialized medically complex per diem reimbursement shall be made to a foster parent who:

1. Maintains a current license as a health professional;

2. Meets criteria specified in Section 4 of this administrative regulation; and

3. Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition.

(k)[~~(j)~~] Upon placement of a child by the cabinet, a per diem reimbursement shall:

1. Be specified in a contract between an approved foster home and the cabinet; and

2. Provide for the care of a child placed by the cabinet, to include:

a. Housing expenses;

b. Food-related expenses;

c. Nonmedical transportation;

d. Clothing;

e. Allowance;

f. Incidentals;

g. Babysitting, excluding childcare authorized in subsection (4)(b) of this section;

h. Sports, recreation, and school activities;

i. One (1) day of respite care per child per month; and

j. School expenses.

(2) Medical coverage.

(a) Cabinet staff may authorize payment for medical expenses for a child in the custody of the cabinet after verification is provided that the child is not covered by health insurance, Medicaid, or the Kentucky Children's Health Insurance Program (K-CHIP).

(b) Designated cabinet staff shall approve or deny authorization of payment for a medical treatment greater than $500.

(3) Child care services.

(a) The cabinet shall review requests for child care services every six (6) months for a working foster parent.

(b) Designated cabinet staff may approve requests for child care services for a nonworking foster parent if:

1. A medical crisis affects the foster parent; or

2. The child care is appropriate to support the foster home or child.

(c) Designated cabinet staff shall review approved requests for child care services for a nonworking foster parent every three (3) months.

(d) Reimbursements shall not be made simultaneously to the same provider for foster care and child care services.

(e) A foster parent shall not simultaneously be used as a licensed or certified health care or social service provider for a child placed in the foster parent's care by the cabinet.

(4) Training. To the extent funds are available, the cabinet shall provide a reimbursement to an approved foster or adoptive home for ongoing training expenses commensurate with the foster or adoptive parent's training needs, including:

(a) Mileage;

(b) Babysitting; and

(c) Tuition or fees up to the amount of:

1. $100 per parent per year; or

2. $200 per parent per year for a:

a. Medically complex foster or adoptive home; or

b. Care plus foster or adoptive home.

(5) Respite care.

(a) Respite care shall be available for a child placed by the cabinet in a foster home.

(b) A foster home shall be eligible for one (1) day of respite care per month per child.

(c) A foster home that cares for a child in the custody of the cabinet and meets criteria established in Sections 4 and 5 of this administrative regulation shall be eligible for three (3) days of respite care per month per child.

(d) Designated cabinet staff may extend a foster parent's respite care use to fourteen (14) days if designated cabinet staff document that the:

1. Foster parent requires the additional respite care:

a. To stabilize the child's placement in the foster home; or

b. Due to unforeseen circumstances that may occur, such as:

(i) Death in the family;

(ii) Surgery; or

(iii) Illness; or

2. Child placed in the foster home requires additional respite care to allow for a period of adjustment.

(e) The cost of respite care shall not exceed the per diem for the child.

(f) A respite care provider shall be approved in accordance with Section 17 of this administrative regulation.

(6) Appeals. A foster or adoptive parent may appeal the timeliness of reimbursement in accordance with 922 KAR 1:320.

Section 11. Home Study Requests. (1) Upon receipt of a request from another state's Interstate Compact on the Placement of Children Administrator in the interest of a child in the legal custody of that state's public agency, the cabinet shall complete the foster or adoptive home approval process as specified in Section 7 of this administrative regulation.

(2) The cabinet shall share a previously approved home study in accordance with the Kentucky Open Records Act, KRS 61.870-61.884, and 42 U.S.C. 671(a)(23).

(3) An individual may request an administrative hearing in accordance with 922 KAR 1:320 for failure of the cabinet to act in accordance with subsections (1) and (2) of this section.

Section 12. Foster or Adoptive Home Annual Reevaluation. (1) Prior to or during the month of the anniversary date of the initial approval as a foster or adoptive parent, the foster or adoptive parent shall be required to complete annual training requirements as specified in 922 KAR 1:495.

(2)(a) Failure to meet training requirements specified in subsection (1) of this section shall lead to closure unless an exception is granted by the designated cabinet staff for a foster parent caring for a child in the custody of the cabinet and it is determined that it is in the best interest of a child placed in the foster home.

(b) If an exception is approved as specified in paragraph (a) of this subsection, a new or additional child shall not be placed in the home until the foster parent has met the training requirement.

(3) A cabinet staff member shall conduct a personal, in-home interview with a foster or adoptive parent prior to or during the month of the anniversary date of the initial approval as a foster or adoptive home. The interviewer shall assess:

(a) Any change in the foster or adoptive home;

(b) The ability of the foster or adoptive home parent to meet the needs of a child placed in the home; and

(c) Continuing compliance with the requirements of Sections 2 and 3 of this administrative regulation.

(4) The cabinet staff member[~~person~~] shall document requirements of subsection (3) of this section to include:

(a) A list of persons residing in or frequently in the home within the past twelve (12) months;

(b) A list of all foster children placed in the home within the past twelve (12) months and exit reasons for the children no longer in the home;

(c) Use of formal and informal support systems including:

1. Respite;

2. Extended family support; and

3. Friends or community partners;

(d) Description of parenting and discipline strategies;

(e) Changes in the physical environment including:

1. Address change; and

2. School district change;

(f) Discussion of stressors within the home to include:

1. Pregnancy or birth;

2. Physical or mental health conditions;

3. Employment changes;

4. Financial changes;

5. Death, grief, or loss;

6. Childhood trauma; and

7. Divorce or personal relationship changes;

(g) Alcohol or drug use and any substance abuse treatment;

(h) Functioning of relationships within the household;

(i) Assessment of the family's ability to meet the needs of the children placed in the home;

(j) List of foster or adoptive home reviews;

(k) Areas of concern or actions to be addressed that may exist within the household; and

(l) Placement recommendations.

Section 13. Foster or Adoptive Home Reviews. (1) Upon notification of a factor that may place unusual stress on the foster or adoptive home or create a situation that may place a child at risk, cabinet staff shall:

(a) Immediately asses the health and safety risk of the child; and

(b) Complete a review of the foster or adoptive home within thirty (30) calendar days.

(2) Factors that shall result in a review of a foster or adoptive home shall include:

(a) Death or disability of a family member;

(b) Sudden onset of a health condition that would impair a foster or adoptive parent's ability to care for a child placed in the home by the cabinet;

(c) Change in marital status or home address;

(d) Sudden, substantial decrease in, or loss of, income;

(e) Childbirth;

(f) Use of a form of punishment that includes:

1. Cruel, severe, or humiliating actions;

2. Corporal punishment inflicted in any manner;

3. Denial of food, clothing, or shelter;

4. Withholding implementation of the child's treatment plan;

5. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; and

6. Assignment of extremely strenuous exercise or work;

(g) A report of abuse, neglect, or dependency that results in a finding that:

1. Is substantiated; or

2. Reveals concern relating to the health, safety, and well-being of the child;

(h) If the foster or adoptive parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense; or

(i) Other factor identified by cabinet staff that jeopardizes the physical, mental, or emotional well-being of the child.

(3) The narrative of the review shall contain:

(a) Identifying information;

(b) Current composition of the household;

(c) Description of the situation that initiated the review;

(d) An evaluation of the foster or adoptive home's family functioning to determine if the child's needs are met; and

(e) A plan for corrective action that may include a recommendation for closure of the foster or adoptive home.

Section 14. Closure of an Approved Foster or Adoptive Home. (1) A foster or adoptive home shall be closed if:

(a) Cabinet staff determines that the family does not meet the general requirements, as specified in Sections 2 and 3 of this administrative regulation, for a foster or adoptive home;

(b) A situation exists that is not in the best interest of a child;

(c) Sexual abuse or exploitation by the foster or adoptive

parent or by another resident of the household is substantiated;

(d) Substantiated child abuse or neglect by a resident of the household occurs that is serious in nature or warrants removal of a child;

(e) A serious physical or mental illness develops that may impair or preclude adequate care of the child by the foster or adoptive parent; or

(f) The cabinet has not placed a child in the home within the preceding two (2) year period.

(2) A foster or adoptive home may be closed according to the terms of the contract between the cabinet and the foster or adoptive home.

(3) If it is necessary to close an approved foster or adoptive home, the reason shall be stated by cabinet staff in a personal interview with the family, unless the family refuses or declines the personal interview.

(4) The cabinet shall:

(a) Confirm, in a written notice to the foster or adoptive parent, the decision to close a home; and

(b) Deliver the notice to the foster or adoptive home within fourteen (14) calendar days of the interview with a foster or adoptive parent.

(5) The written notice for closure of a foster or adoptive home shall include:

(a) Notice that the cabinet shall not place a child in the home; and

(b) The reason why the foster or adoptive home is being closed.

Section 15. Reapplication. (1) A former foster or adoptive home parent whose home was closed pursuant to Section 14(1)(a) through (f) of this administrative regulation may be considered for reapproval if the cause of closure has been resolved.

(2) To reapply, a former foster or adoptive parent shall:

(a) Attend an informational meeting; and

(b) Submit the:

1. Names of references specified in Section 2(13) of this administrative regulation; and

2. Authorization for criminal records release specified in Section 2(17) of this administrative regulation.

(3) A reapplying former foster or adoptive parent shall reenroll and complete training requirements, as specified in Section 6 of this administrative regulation, unless:

(a) The former foster or adoptive parent has previously completed training requirements, as specified in Section 6(2) of this administrative regulation; and

(b) An exception to reenrollment is provided by designated cabinet staff which have ascertained that the former foster or adoptive parent otherwise meets the necessary skill level.

Section 16. Placement Considerations. (1) Unless an exception is approved pursuant to subsections[~~subsection~~] (2) or (3) of this section because a placement is in the best interest of the child and specific support services shall[~~will~~] be provided, the requirements established by this subsection shall apply to foster homes.

(a) More than six (6)[~~five (5)~~] children, including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall not reside in a foster home.

(b) More than two (2) children under age two (2), including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall not reside in a foster home.

(c) A child with medical complexity shall be placed in an approved medically complex home.

(2) To request an exception to the criteria established by subsection (1) of this section, cabinet staff shall submit the DPP-112A, DCBS Placement Exception Request, to designated cabinet staff prior to the proposed placement documenting:

(a) The reason the placement is in the best interest of the child; and

(b) Specific support services to be provided.

(3) The number of foster children residing in a foster family home may exceed the limitation established in subsection (1)(a) of this section with documentation on the DPP-112A in order to allow:

(a) A parenting youth in foster care to remain with the child of the parenting youth;

(b) Siblings to remain together;

(c) A child with an established meaningful relationship with the family to remain with the family;

(d) A family with special training or skills to provide care to a child who has a severe disability; or

(e) Other circumstances noted in the DPP-112A and approved by the service region administrator or designee.

(4) If an exception to subsection (1) or (2) of this section is necessary for a placement to occur outside of normal business hours:

(a) Cabinet staff shall verbally provide all information contained within the DPP-112A to designated cabinet staff prior to the placement;

(b) A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and

(c) The completed DPP-112A shall be submitted on the first business day following placement.

(5)[~~(4)~~] Cabinet staff shall inform the foster parent of conditions related to the child in accordance with:

(a) KRS 605.090(1)(b); and

(b) KRS 605.090(6).

(6) Cabinet staff shall place a child with higher level needs in an advanced level home or above if a relative or fictive kin placement has not been identified.

(7)[~~(5)~~] A foster or adoptive parent may adopt a child for whom parental rights have been terminated if:

(a) Foster or adoptive parent adoption is determined by cabinet staff to be in the best interest of the child;

(b) The child resides in the foster or adoptive home; and

(c) Criteria in 922 KAR 1:100 are met.

(8)[~~(6)~~] If a foster or adoptive parent expresses interest in adopting a foster child currently placed in the home and an alternative permanent placement is in the child's best interest, cabinet staff shall meet with the foster or adoptive parent prior to selection of an adoptive home to explain:

(a) Why an alternative permanent placement is in the child's best interest; and

(b) The foster or adoptive parent's right to submit a request to the cabinet to reconsider the recommendation.

Section 17. Requirements for Respite Care Providers. (1) A respite care provider shall:

(a) Be:

1. An approved foster or adoptive home; or

2. Approved in accordance with subsection (2) of this section; and

(b) Receive preparation for placement of a child, including information in accordance with:

1. KRS 605.090(1)(b); and

2. Section 4(1)(e) through (g) of this administrative regulation, if the child is designated as medically complex.

(2) If a foster or adoptive parent chooses a respite care provider who is not an approved foster or adoptive home, the respite care provider shall:

(a)1. Meet criteria established in Sections 2(1), (2), (17), (18) and 3 of this administrative regulation if respite care is provided outside the home of the foster or adoptive parent; or

2. Meet criteria established in Section 2(1), (2), (17), and (18) of this administrative regulation if respite care is provided inside the home of the foster or adoptive parent; and

(b)1. If providing respite care for a child described in Section 5(1)(b) of this administrative regulation, have:

a. Child-specific training in the mental health treatment of children or their families; or

b. A certificate of completion for twelve (12) hours of care plus training specified in 922 KAR 1:495, Section 6(1); or

2. If providing respite care for a child with medical complexity or specialized medical complexity:

a. Meet training requirements in accordance with 922 KAR

1:495, Section 7;

b. Hold a current certificate in first aid;

c. Hold a current certificate in infant, child, and adult CPR; and

d. Receive child specific training from a health professional or a foster parent who has been trained by a health professional in how to care for the specific medical needs of the child.

(3) A respite care provider:

(a) May attend pre-service training as specified in Section 6 of this administrative regulation; and

(b) Shall comply with Sections 16 and 17 of this administrative regulation.

Section 18. Waiver Review Process. (1) The department may waive requirements for a relative or fictive kin seeking approval as a child specific foster home if the removal of those requirements does not jeopardize the health, safety, or welfare of the child being placed.

(2) The department shall not grant a waiver to the requirements established in the following sections of this administrative regulation:

(a) Section 2, subsections (1)(a) through (7), (10) through (12), (16) through (18); or

(b) Section 3, subsections (1) through (5), (6)(b), (7) through (10)(c), (10)(e) through (10)(g), (11) through (18).

(3) An applicant may request a waiver of non-safety standards. A representative of the department shall submit a written request that states the:

(a) Specific provision(s) for which a waiver is requested; and

(b) Justification for the requested waiver.

(4) A child specific foster home that seeks approval as a basic foster home or higher level shall complete all prior waived training and meet the requirements established in Sections 2 and 3 of this administrative regulation.

Section 19. Emergency Preparedness. Each foster home shall submit an emergency preparedness plan to the department that would allow the department to identify, locate, and ensure continuity of services to children who are in the custody of the cabinet.

Section 20. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DPP-107, Health Information Required for Foster or Adoptive Parents, Applicants, or Adult Household Members", 10/15;

(b) "DPP-108, Health Information Required for Foster or Adoptive Parents or Applicants Regarding Dependent Children", 10/15; and

(c) "DPP-112A, DCBS Placement Exception Request", 4/19[~~10/15~~].

(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.

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 1, 2019 at 1 p.m.

CONTACT PERSON: Chase Coffey, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, phone (502) 564-3703, email Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish standards for public agency foster parents, adoptive parents, and respite care providers who care for children in the custody of the cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1), 199.472(1), and 605.100(1) require the cabinet to promulgate administrative regulations necessary to operate programs to fulfill the responsibilities vested in the cabinet; arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective needs; and promulgate administrative regulations to establish the process of determining an applicant's capacity for foster or adoptive parenthood.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing criteria for public agency foster parents, adoptive parents, and respite care providers.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation establishes a new category of child specific foster home provided to relative and fictive kin caregivers of children and the requirements applicants must adhere to for agency approval. The amendment establishes a waiver process for foster and adoptive parents and for child specific foster homes in which requirements that do not jeopardize the health, safety, or welfare of the child being placed may be waived by the cabinet. Unless an exception is permitted, the maximum number of children residing in a foster home is being amended to six rather than five, in accordance with Section 472(c)(1)(A)(ii)(III) of the Family First Prevention Services Act. The amendment also incorporates federal model standards into the certification and approval process of public foster care and adoptive homes and includes updates needed for consistency between public and private foster and adoptive homes and for compliance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to establish a new child specific category of foster homes for relative and fictive kin caretakers and to incorporate federal model licensing standards for public foster and adoptive homes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the cabinet to promulgate, administer, and enforce programs mandated by federal law or to qualify for the receipt of federal funds. KRS 199.472(1) requires the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for foster or adoptive parenthood.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will ensure that public foster and adoptive homes meet federal standards necessary for federal funding reimbursement and by establishing the process for which a relative or fictive kin caregiver may become a certified child specific foster home.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently over 9,000 children in foster care and approximately 5,000 foster or adoptive homes. In 2018, the cabinet substantiated or found services were needed for 32,411 unique children (TWS-M272F, 1/2/19). Establishing procedures whereby relatives and fictive kin may become foster homes for children when they are unable to remain safely in the home of their parents may reduce trauma by placing children in these approved homes with people whom they are already familiar. The cabinet highly values relative and fictive kin placements. The Annie E. Casey Foundation analysis and assessment indicated that Kentucky has approximately 16,000 active relative placements – approximately ten relative cases for every six children in foster care. Not all of these caregivers will choose to be certified as a child specific home, but the cabinet will be affected in that there will be more resource homes that need to be certified as well as additional costs through the payment of monthly per diem rates to homes that were previously not eligible.

(4) Provide an analysis of how the entities identified in question

(3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Relative and fictive kin caregivers will make contact with the cabinet and follow the procedures outlined in this administrative regulation to become a child specific foster home. The administrative regulation provides a waiver process to facilitate approval.

(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 relative or fictive kin caregivers. The cabinet will realize increased costs, as there will be more foster homes that were previously not eligible for reimbursement for accepting a relative into their home in the circumstance that the child could not remain in their parents' home due to safety concerns. The number of relatives that will want to be approved as a child specific foster home is unknown at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will benefit children who have to be placed outside of their home by enduring less trauma through relative and fictive kin placements and the administrative regulation will provide resources to the relative and fictive kin caregivers.

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

(a) Initially: The Annie E. Casey Foundation analysis and assessment indicated that Kentucky has approximately 16,000 active relative placements – approximately ten relative cases for every six children in foster care. Not all of these caregivers will choose to be certified as a child specific home, but the cabinet will be affected in that there will be more foster homes that need to be certified as well as additional costs through the payment of monthly per diem rates to homes that were previously not eligible. Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array, including costs of this new foster home type. Federal funds will be leveraged for this program.

(b) On a continuing basis: Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs. Federal funds will be leveraged for this program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this administrative regulation will meet federal guidelines and be eligible for Title IV-E reimbursement. The implementation and enforcement of this administrative regulation are supported through funds under Title IV-E of the Social Security Act and General Funds.

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

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 677

2. State compliance standards. KRS 194A.050(1), 199.472(1), 605.100(1)

3. Minimum or uniform standards contained in the federal mandate. 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 677

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.472, 605.100(1),16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 677

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

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

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

(c) How much will it cost to administer this program for the first year? Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs. Federal funds will be leveraged for this program.

(d) How much will it cost to administer this program for subsequent years? Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs. Federal funds will be leveraged for this program.

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

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

STATEMENT OF EMERGENCY
922 KAR 1:495E

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)1 to preserve the health and welfare of vulnerable children in the custody of the Cabinet for Health and Family Services. The administrative regulation implements the model licensing standards' training requirements for foster family homes which are required by federal law Pub.L. 115-123. The standards must be incorporated into the state Title IV-E plan by April 1, 2019. The administrative regulation establishes the procedures to waive non-safety standards for licensing child-specific foster homes.

An ordinary administrative regulation would not allow sufficient time to implement the model licensing standards' training requirements for foster homes and the waiver of non-safety standards procedures in accordance with federal law Pub.L. 115-123. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to the emergency administrative regulation.

MATTHEW G. BEVIN, Governor
ADAM M. MEIER, Secretary

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

922 KAR 1:495E. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

RELATES TO: KRS 61.870, 158.135(1)(c), 194A.005(1), 194A.050(1), 199.011[~~199.011(9)~~], 199.464, 199.472(1), 199.640, 311.720(12)[~~311.720(9)~~], 311.840(3), 314.011(5), (7), 600.020, 605.100(1), 605.150(1), 620.360, 45 C.F.R. Parts 160, 164, 42 U.S.C. 671(a), 675

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472(1), 199.640(5), 605.100(1), 605.150(1)

EFFECTIVE: April 1, 2019

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary for the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 199.472(1) requires[~~authorizes~~] the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for adoptive parenthood. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.100(1) requires the cabinet to arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. In addition, 42 U.S.C. 671(a)(24) includes a certification that, before a child in foster care under the responsibility of the state is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child. This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

Section 1. Definitions. (1) "Adoptive parent" means an individual who is seeking to adopt a child placed in the custody of the cabinet.

(2) "Applicant" means an individual or family, subject to approval by the cabinet, or by a private child-placing agency, as a foster or adoptive home.

(3) "Cabinet" is defined by KRS 194A.005(1) and 600.020(7)[~~600.020(6)~~].

(4) "Care Plus" means a foster care program for a child who is determined to have specialized care needs as specified in 922 KAR 1:350, Section 5.

(5) "Child specific foster home" means an individual or family subject to approval by the cabinet as a foster family home for a relative or fictive kin placement.

(6) "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(10)[~~199.011(9)~~] and 600.020(30)[~~600.020(28)~~], if referring to a physical structure; or

(b) If referring to an individual, any individual approved as a foster parent by:

1. A child-placing agency in accordance with 922 KAR 1:310; or

2. The cabinet in accordance with 922 KAR 1:350.

(7)[~~(6)~~] "Health professional" means a person actively licensed as a:

(a) Physician as defined by KRS 311.720(12)[~~311.720(9)~~];

(b) Physician assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

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

(8)[~~(7)~~] "Medically complex" means a foster care program for a child who is determined to have a medical condition as specified in 922 KAR 1:350, Section 4.

(9)[~~(8)~~] "Professional experience" means paid employment or volunteer work in a setting where there is supervision or periodic evaluation.

(10)[~~(9)~~] "Reasonable and prudent parent standard" is defined by 42 U.S.C. 675(10).

(11)[~~(10)~~] "Respite care" means temporary care provided by another individual or family:

(a) To provide relief to a foster or adoptive parent approved in accordance with 922 KAR 1:310 or 922 KAR 1:350; and

(b) With the expectation of a child's return to the current foster or adoptive home.

(12)[~~(11)~~] "Therapeutic foster care" is defined by KRS 158.135(1)(c).

(13)[~~(12)~~] "Trauma informed care" means training developed using an organizational strengths-based framework to recognize and respond to the impact of traumatic stress on children, caregivers, and service providers with a goal to facilitate and support the recovery and resiliency of the child and family.

Section 2. General Training Requirements. (1) The purpose of the foster or adoptive parent training shall be to:

(a) Orient the applicant to the philosophy and process of the foster care or adoption programs;

(b) Develop greater self-awareness on the part of the applicant to determine strengths and needs;

(c) Sensitize the applicant to the kinds of situations, feelings, and reactions that are apt to occur with a child in the custody of the cabinet;

(d) Effect behavior so that an applicant may better fulfill the role as a foster or adoptive parent to a child; and

(e) Emphasize:

1. Self-evaluation; and

2. Experiential learning.

(2)(a) A foster or adoptive parent applicant shall complete a minimum of fifteen (15) hours of curricula in the following topic areas:

1. Information about the rights, responsibilities, and expectations of a foster or adoptive parent;

2. The importance of birth parents and culture;

3. The process of a child entering foster care;

4. Types of child maltreatment;

5. Impact of childhood trauma;

6. Stages of grief;

7. Long term effects of separation and loss;

8. Permanency planning for a child, including independent living for transitioning youth;

9. Importance of attachment on a child's growth and development and the way a child maintains and develops a healthy attachment;

10. Family functioning, values, and expectations of a foster or adoptive home;

11. Cultural competency;

12. Emergency preparedness;

13. Child development;

14. Basic discipline and behavior management skills; and

15. Reasonable and prudent parent standard.

(b) The cabinet may waive up to twelve (12) hours of

preservice training curricula for an applicant seeking approval as a child specific foster home.

(c) The cabinet shall not waive the required electronic courses required by subsection (3) of this section.

(d)[~~(b) Beginning July 1, 2016,~~] Training curricula specified in paragraph (a) of this subsection shall be:

1. Provided by the cabinet; or

2. Approved by the cabinet in accordance with Section 8 of this administrative regulation.

(e)[~~(c)~~] Unless justification is documented pursuant to paragraphs (f)[~~(d)~~] and (g)[~~(e)~~] of this subsection, foster or adoptive parent training for placement of a child in the custody of the cabinet shall be completed in a group setting by each adult who resides in the household and may provide routine care to a child in the custody of the cabinet.

(f)[~~(d)~~] A justification to provide foster or adoptive parent training other than in a group setting pursuant to paragraph (e)[~~(c)~~] of this subsection shall:

1. Include the circumstance that[~~, which~~] prevents the foster or adoptive parent training from occurring in a group setting; and

2. Be documented utilizing the DPP-113, Request for Applicant or Adult Household Member to Attend Individualized Training.

(g)[~~(e)~~] A justification completed in accordance with paragraph (f)[~~(d)~~] of this subsection shall be placed in the foster or adoptive parent's case file.

(h)[~~(f)~~] An applicant shall not receive more than eight (8) hours of individualized training during a twenty-four (24) hour period.

(3) In addition to initial training requirements in subsection (2)(a) of this section, a foster or adoptive parent applicant shall complete the following electronic courses provided by the cabinet prior to approval:

(a) Pediatric Abusive Head Trauma;

(b) First Aid and Universal Precautions;

(c) Medication Administration;[~~and~~]

(d) Medical Passports; and

(e) Reasonable and Prudent Parenting.

(4) First aid certification may substitute for the training requirement provided within subsection (3)(b) of this section if the foster or adoptive parent applicant provides documentation of current certification.

Section 3. General Annual Training Requirements. (1) Prior to or during the month of the second anniversary date of a foster or adoptive parent's initial approval, the foster or adoptive parent shall complete a minimum of thirty (30) hours of training in the following areas:

(a) Trauma informed care curriculum provided or approved by the cabinet in accordance with Section 8 of this administrative regulation;

(b) Psychotropic medications curriculum provided by the cabinet;

(c) Sexual abuse curriculum provided or approved by the cabinet in accordance with Section 8 of this administrative regulation; and

(d) Behavior management and skill development.

(2) If a private child-placing agency provides training in accordance with subsection (1) of this section prior to a foster or adoptive home's approval, the thirty (30) hours shall be in addition to the fifteen (15) hours of pre-service training required by Section 2(2) of this administrative regulation.

(3)[~~A foster or adoptive home approved prior to the adoption of this administrative regulation shall complete the training described in subsection (1) of this section within two (2) years of the effective date of this administrative regulation.~~

~~(4)~~] If training requirements of subsections (1) and (2)[~~through (3)~~] of this section are met, a foster or adoptive parent shall complete the following prior to or during each subsequent anniversary of the foster or adoptive parent's initial approval:

(a) Ten (10) hours of private child-placing agency or cabinet-sponsored training related to knowledge or skills relevant to foster parenting, or training approved in advance by the private child-placing agency or the cabinet; and

(b) If applicable, training as specified in Section 2(3)(a) of this administrative regulation once every five (5) years in accordance with KRS 199.464.

(4)(a) The cabinet may waive annual ongoing training requirements for a foster home approved as a child specific foster home.

(b) The cabinet shall assess the need for ongoing training for the child specific foster home during the annual re-evaluation[~~(5) A foster or adoptive parent shall complete training regarding the reasonable and prudent parent standard in accordance with 42 U.S.C. 671(a) and Section 2(2)(a)15 of this administrative regulation within one (1) year of the effective date of this administrative regulation~~].

Section 4. Medically Complex Foster Parent Training Requirements. (1) In addition to the general training requirements established[~~specified~~] in Section 2 of this administrative regulation and annual training requirements established[~~specified~~] in Section 3 of this administrative regulation, a medically complex foster parent applicant shall:

(a) Complete twelve (12) hours of cabinet-provided medically complex training in the following topic areas specific to children with medical complexity:

1. Growth and development;

2. Nutrition;

3.[~~An overview of procedures and techniques which may be utilized to provide care~~;

~~3. Observation and assessment~~;

~~4. Management of diet and environment;~~

~~5.~~] Documentation of provided care;

4. Medical conditions[~~6. Parenting skills~~]; and

5. Standards of practice related to the medically complex home type[~~7. Permanency planning~~]; and

(b) Hold a current certification in infant, child, and adult CPR and first aid.

(2) Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter, an approved medically complex foster parent shall:

(a) Meet the requirements in subsection (1)(b) of this section;

(b) Complete the annual training requirements as specified in Section 3 of this administrative regulation; and

(c) Complete twelve (12) hours of ongoing cabinet-provided training related to the care of children with medical complexity.

(3) Professional experience related to the care of a child with medical complexity may substitute for the initial and annual medically complex training requirements specified in subsections (1)(a) and (2)(c) of this section if approved by designated cabinet staff based on the foster or adoptive parent:

(a) Being a health professional; and

(b) Having completed twelve (12) hours of continuing education focusing on pediatrics within the past year that will assist the parent in the care of a child with medical complexity.

Section 5. Therapeutic Foster Care Training Requirements. (1) In addition to the general training requirements specified in Section 2 of this administrative regulation and annual training requirements specified in Section 3 of this administrative regulation, a therapeutic foster care applicant in accordance with 922 KAR 1:310 shall complete twelve (12) hours of private agency-sponsored training or training approved in advance by the child-placing agency in the following topic areas:

(a) Specific requirements and responsibilities of a therapeutic foster care home;

(b) Crisis intervention and behavior management;

(c) De-escalation techniques;

(d) Communication skills;

(e) Skill development;

(f) The dynamics of a child who has experienced sexual abuse or human trafficking; and

(g) The effect of substance use, abuse, or dependency by either the child or the child's biological parent.

(2) An approved therapeutic foster parent shall:

(a) Complete the annual training requirements as specified in Section 3 of this administrative regulation; and

(b) Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter, complete twelve (12) hours of private agency-sponsored training or training approved in advance by the private agency in topic areas relevant to therapeutic foster care.

(3) A therapeutic foster care applicant may concurrently complete general training requirements as specified in Section 2 of this administrative regulation and training requirements established in subsection (1) of this section.

Section 6. Care Plus Training Requirements. (1) In addition to the general training requirements specified in Section 2 of this administrative regulation and annual training requirements specified in Section 3 of this administrative regulation, a care plus applicant in accordance with 922 KAR 1:350 shall complete twelve (12) hours of cabinet-sponsored training or training approved in advance by the cabinet in the following topic areas:

(a) Specific requirements and responsibilities of a care plus foster home;

(b) Crisis intervention and behavior management;

(c) De-escalation techniques;

(d) Communication skills;

(e) Skill development;

(f) Cultural competency;

(g) The dynamics of a child who has experienced sexual abuse or human trafficking; and

(h) The effect of substance use, abuse, or dependency by either the child or the child's biological parent.

(2) An approved care plus foster parent shall:

(a) Complete the annual training requirements as specified in Section 3 of this administrative regulation; and

(b) Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter, complete twelve (12) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet prior to or during the anniversary month of initial approval as a foster parent in the topic areas described in subsection (1) of this section.

Section 7. Respite Care Providers. If a respite provider is not approved as a foster or adoptive parent in accordance with 922 KAR 1:350 or 922 KAR 1:310, prior to initial approval as a respite care provider, the individual shall complete a minimum of two (2) hours of cabinet or private child-placing agency provided curriculum including an overview of the department and the policies and procedures of the agency related to the care of the child.

Section 8. Preapproval of Training Curricula. (1) If a private child-placing agency intends to offer curricula other than curricula provided by the cabinet as specified in Sections 2(2) or 3(1) of this administrative regulation, the private child-placing agency shall submit its curricula to the cabinet or its designee for consideration.

(2) The cabinet shall approve curricula that are:

(a) Comparable in content to curricula provided by the cabinet; or

(b) Recognized evidence-based practices.

(3) The cabinet shall make a determination:

(a) Within thirty (30) calendar days; or

(b) As a part of the child-placing agency's initial application to provide services to a child in the custody of the cabinet.

Section 9. Incorporation by Reference. (1) "DPP-113, Request for Applicant or Adult Household Member to Attend Individualized Training", 11/15, is incorporated by reference.

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

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 1, 2019 at 1 p.m.

CONTACT PERSON: Chase Coffey, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, phone (502) 564-3703, email Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for children in the custody of the cabinet.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to distinguish and establish training requirements for foster parents, adoptive parents, and respite care providers caring for children in the custody of the cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 199.472(1) requires the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for adoptive parenthood. KRS 199.640(5)(a) requires the cabinet to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies

(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 to the administrative regulation allows the cabinet to waive up to twelve hours of preservice training as well as ongoing training requirements for child-specific relative or fictive kin foster homes.

(b) The necessity of the amendment to this administrative regulation: Applicants approved as a child-specific foster home have a prior existing relationship with the child placed in their home, and therefore a waiver of preservice training is appropriate to the specific needs of those families.

(c) How the amendment conforms to the content of the authorizing statutes: Approved child-specific foster homes will still receive minimal preservice training as required by statute for approval as a foster home and will complete the required web-based trainings.

(d) How the amendment will assist in the effective administration of the statutes: Applicants who are approved as a child-specific foster home will receive training tailored to their needs and provide them with the knowledge to care for a child with whom they are related or already possess a significant relationship.

(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 relatives and fictive kin who have a child placed with them due to the child being removed from their home for safety reasons. This number is unknown as these caregivers may not be in contact with the cabinet currently. However, Annie E. Casey Foundation's analysis and assessment indicates that Kentucky has approximately 16,000 active relative placements – approximately ten relative cases for every six children in foster care. Not all of these caregivers may want to be approved as child-specific foster homes.

(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 waiver of the preservice training requirement will expedite the approval process for child-specific foster homes. Relative and fictive-kin caregivers will be advised of their options by DCBS staff. If they choose to move forward in pursuit of approval as a foster parent, these caregivers will be guided through the training process by DCBS staff.

(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 to comply with training requirements for participants seeking approval to become a child-specific foster home as outlined in this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Relative and fictive kin caregivers will be able to be approved as child-specific foster homes through an easier and faster process than is currently available. In addition to guidance and an array of services provided by the cabinet, approved foster homes also receive a per diem from the cabinet.

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

(a) Initially: Annie E. Casey Foundation's analysis and assessment indicate that Kentucky has approximately 16,000 active relative placements – approximately ten relative cases for every six children in foster care. If Kentucky were to reinstate kinship care program benefits for 16,000 relative placements, the fiscal impact would equate to $57.6M dollars annually. However, creating a foster home type specific for relatives and fictive kin caregivers allows for federal funding to be leveraged. The *D.O. v. Glisson* court ruling ordered DCBS to pay a foster care per diem to relatives and fictive kin caregivers raising kin children. This new child-specific foster home type will replace the funding source for this per diem and offer a wider array of service options for caregivers. This is in addition to providing clothing vouchers, special expenses, and child care assistance. From February through early December 2018, DCBS spent $9.5 million in benefits payments alone under the ruling. Current outlays are averaging $1.5 million per month, meaning that the ruling is on track to cost the cabinet $18 million in benefits by the end of SFY 2019. Application of the ruling to other like cases is absorbing and exceeding additional appropriations to DCBS for relative supports and kinship care in the current budget biennium.

(b) On a continuing basis: Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal and state funds under Title IV-E the Social Security Act and General Funds are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increases in fees or funding necessary to implement this administrative regulation.

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 671(a)(24)

2. State compliance standards. KRS 194A.050(1), 199.472, 199.640(5), 605.100(1), 605.150(1)

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 671(a)(24) includes a certification that, before a child in foster care under the responsibility of the state is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child. This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

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 allows for a waiver of training requirements as allowed per federal code.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amended administrative regulation does not impose stricter standards.

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 Community Based Services is impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.472(1), 199.640(5), 605.100(1), 605.150(1); 42 U.S.C. 671(a)(24)

(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. Currently, as a result of the *D.O. v. Glisson* court ruling, the state is spending over one million dollars per month to provide a financial benefit to relative and fictive-kin caregivers who are caring for children placed in their homes. Establishing this easier, more efficient process of approving child-specific foster homes is expected to decrease state expenditures as federal funding will be leveraged.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There will be no revenue generated as a result of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There will be no revenue generated as a result of this administrative regulation.

(c) How much will it cost to administer this program for the first year? Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs.

(d) How much will it cost to administer this program for subsequent years? Federal funding will be leveraged and the cost will be absorbed as this new foster home type does not stray from current standards of practices with the exception of the waiver of non-safety standards.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

FINANCE AND ADMINISTRATION CABINET
Teachers' Retirement System
(As Amended at ARRS, April 9, 2019)

102 KAR 1:163. Collection of life insurance benefits.

RELATES TO: KRS 161.655
STATUTORY AUTHORITY: KRS 161.310, KRS 161.655
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310 requires the Board of Trustees of Teachers' Retirement System (TRS) to promulgate administrative regulations for the administration of funds of the retirement system and for the transaction of business. KRS 161.655 provides that upon the death of a member or retiree, a life insurance benefit shall be provided. This administrative regulation establishes the process for issuance of the benefit upon the death of a member or retiree.

Section 1. Following notification of the death of a member or retiree, TRS shall contact the named beneficiary or estate of the deceased.

Section 2. The Application for Life Insurance Benefit (Form 9) shall be executed by the designated beneficiary or representative of the estate. The application shall be accompanied by the following:
(1) A copy of the member's or retiree's certified death certificate;
(2) If the benefit is payable to the estate,***[or]*** the member failed to designate a beneficiary, or the designated beneficiary has died, a copy of the court order:
(a) Appointing the executor, administrator, or personal representative of the estate; or
(b) Dispensing with formal administration of the estate and a completed Affidavit for Collection of Life Insurance Benefit.
(3) If the benefit is payable to a minor child, a copy of the child's birth certificate. If the child has a court appointed guardian or conservator, a copy of the court order appointing the guardian or conservator;
(4) If the benefit is payable to an existing trust, a copy of the trust document;
(5) If the benefit is payable to an individual and the individual has experienced a name change since the beneficiary designation was made, a copy of the individual's signed Social Security card;
(6) If the member or retiree marries after designating a beneficiary, a copy of the certified marriage certificate; and
(7) If the member or retiree obtains a divorce after designating a beneficiary, a copy of the divorce decree.

Section 3. The life insurance benefit shall be paid after all required information, documents and completed forms are received by TRS.

Section 4. Incorporation by Reference.
(1) The following material is incorporated by reference:
(a) "Application for Life Insurance Benefit" (Form 9), January 2019; and
(b) "Affidavit for Collection of Life Insurance Benefit", January 2019.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

RON SANDERS, Chairperson
APPROVED BY AGENCY: December 17, 2018
FILED WITH LRC: January 15, 2019 at noon
CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, telephone (502) 848-8508, facsimile (502) 573-0199 or email at Beau.Barnes@trs.ky.gov.

FINANCE AND ADMINISTRATION CABINET
Teachers' Retirement System
(As Amended at ARRS, April 9, 2019)

102 KAR 1:168. Survivor's benefits.

RELATES TO: KRS 161.520
STATUTORY AUTHORITY: KRS 161.310, 161.520
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310 requires the Board of Trustees of the Teachers' Retirement System (TRS) to promulgate administrative regulations for the administration of funds of the retirement system. KRS 161.520(8) requires the board to promulgate administrative regulations for the administration of survivor's benefits for a deceased member's spouse, dependent parent or dependent sibling. KRS 161.520(7) provides that the board may require application for survivor's benefits. This administrative regulation establishes the guidelines for applying for survivor's benefits.

Section 1. (1) If a deceased member's survivor meets the requirements set forth in KRS 161.520(1), (4), or (5), an Application for Survivor Benefits form may be filed and shall include a photocopy of:
(a) The survivor's signed Social Security card;
(b) The survivor's certified birth certificate; and
(c) The deceased member's certified death certificate.
(2) If the survivor is a dependent parent or dependent***[,]*** adult sibling, the application shall also include a copy of the most recent Federal Income Tax Return listing the parent or sibling as a dependent.
(3) If the survivor is the deceased member's spouse, the application shall also include a copy of the parties' certified marriage certificate.
(4) If the application is approved, the survivor's monthly payment shall continue until one (1) of the conditions for termination of benefits in KRS 161.520(6) is met.
(5) If the surviving spouse or legal dependent meets the requirements of KRS 161.525, he or she may elect to receive an actuarially equivalent annuity. The annuity shall be calculated, processed, and disbursed in accordance with the provisions of KRS 161.525.
(6) Payments shall not be made until all required information, documents, and completed forms are received at the retirement system office.

Section 2. Incorporation by Reference.
(1) The "Application for Survivor Benefits" Form 15, January, 2019 is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

RON SANDERS, Chairperson
APPROVED BY AGENCY: December 17, 2018
FILED WITH LRC: January 15, 2019 at noon
CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, telephone (502) 848-8508, fax (502) 573-0199 or email at Beau.Barnes@trs.ky.gov.

FINANCE AND ADMINISTRATION CABINET
Teachers' Retirement System
(As Amended at ARRS, April 9, 2019)

102 KAR 1:320. Qualified domestic relations orders.

RELATES TO: KRS 161.220, 161.700,[-] 161.716, 403.190, 26 U.S.C. 414(p)

STATUTORY AUTHORITY: KRS 161.310(1), 161.700(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310(1) requires the Board of Trustees of the Teachers' Retirement System (TRS) to promulgate administrative regulations for the administration of the funds of the retirement system. KRS 161.700(4) requires the Board of Trustees of TRS to promulgate administrative regulations setting forth the requirements, procedures, and forms for the approval and processing of qualified domestic relations orders impacting the benefits of participants of the retirement system. This administrative regulation establishes these requirements.

Section 1. Definitions.

(1) "Alternate payee" is defined by KRS 161.220(26).

(2) "Benefits" means a monthly service or disability retirement allowance or refund payable at the request of a participant covered by TRS who terminates employment in a TRS covered position prior to becoming eligible to receive a retirement allowance.

(3) "Member" is defined by KRS 161.220(4).

(4) "Participant" is defined by KRS 161.220(24).

(5) "Qualified domestic relations orders" or "QDRO" is defined by KRS 161.220(25).

Section 2. (1) A QDRO shall state the following:

(a) The member's name, TRS member identification number, and last-known mailing address;

(b) The alternate payee's name and last known mailing address;

(c) Whether the order applies to:

1. An active account from which the member is not currently receiving a retirement allowance; or

2. A retired account from which the member is currently receiving a retirement allowance and the date on which the member retired the account;

(d) The date of marriage;

(e) The date of decree of dissolution of marriage;

(f) That the order is for the purpose of property division;

(g) Whether the alternate payee shall receive:

1. Recurring monthly payments under Option A, Option B, or Option C; and

2. For an active, contributing participant, a share of a termination refund of the contributions posted to the participant's account as either:[~~(h) The amount of the participant's monthly retirement allowance or termination refund to be paid by TRS to the alternate payee as either;~~

a.[~~1.~~] A fixed dollar amount; or

b. A[~~2. The~~] percentage calculated under Section 7[~~(1) or~~](2) of this administrative regulation or as determined by either the Court or the parties;

(h)[~~(i)~~] When payments shall begin;

(i)[~~(j)~~] When payments shall cease;

(j)[~~(k)~~] That the alternate payee shall be paid in the same form as the participant;

(k)[~~(l)~~] If the alternate payee spouse shall share in the participant's cost of living adjustments if the QDRO awards a fixed dollar amount to the alternate payee;

(l)[~~(m)~~] Who shall be responsible for payment of the TRS processing fee; and

(m)[~~(n)~~] All information required on the Qualified Domestic Relations Order to Divide Teachers' Retirement System Benefits.

(2) A QDRO shall be:

(a) Approved by TRS as to enforceability and compliance with the requirements of KRS 161.700 and this administrative regulation;

(b) Approved and submitted by the participant and alternate payee or their legal counsel;

(c) Signed by the judge of a court of competent jurisdiction;

(d) Filed with the clerk of the court; and

(e) Certified by the clerk of the court.

Section 3. Administrative Provisions.

(1) Upon entry of a final divorce decree, the participant shall forward a copy of the decree to TRS and:

(a) If the participant is a retired member, request:

1. A Change of Option Following Termination of Marriage form, if the participant wants to change his or her retirement option, which shall be done within sixty (60) days of the final divorce decree;

2. A Change of Retirement Beneficiary form, if the participant had chosen retirement Option I or Option II and does not want to change his or her retirement option, but wants to name a new beneficiary;

3. A Designation of Beneficiary for TRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate; or

4. A W-4P Withholding Certificate for Pension or Annuity Payments[,] or "W-4P", if the participant wants to change the amount of federal tax withheld from his or her retirement benefit; or

(b) If the participant is an active member, he or she shall request:

1. A Designation of Beneficiary for TRS Retirement Account Balance form, if the participant wants to designate a beneficiary other than his or her estate; or

2. A Designation of Beneficiary for TRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate.

(2) Thirty (30) days prior to filing the QDRO with TRS, the participant or alternate payee shall present a written request for benefits information for divorce purposes. The participant, alternate payee, or third party, including the party's legal counsel, shall provide a completed TRS Authorization for Release of Information form with the request.

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

(4) If the QDRO is directed to an account from which the participant is not currently receiving a retirement allowance, TRS shall not project future earnings or future service. TRS shall provide:

(a) The participant's total accrued service credit, including service credit purchased during the marriage, and the member account balance, including the total amount of accrued contributions and interest, as posted at the end of each fiscal year during the marriage and for which an employer annual report has been received by TRS and for which the member has not received a refund; and

(b) An estimate of the monthly retirement allowance the participant would receive if the participant retired without a statutory reduction of the basic retirement allowance based upon the participant's final compensation and total accrued service credit as of the date of dissolution of marriage or receipt of the request for information.

(5) If the participant has retired, TRS shall provide the amount of the participant's monthly retirement allowance, the participant's accumulated account balance at retirement, the total retirement allowance received to date, and the participant's total accrued service credit, including any service credit purchased during the marriage. The parties, their legal counsel, or the court may use the information to decide what portion of the participant's account is marital. TRS shall not decide whether, or if, any portion of the participant's account is marital and potentially subject to division.

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

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

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

1. Participant or legal counsel; and

2. Alternate payee or legal counsel;

(b) A $300 nonrefundable processing fee, by certified check or on the attorney's trust account, made payable to the Kentucky State Treasurer, except that a processing fee shall not be charged for a QDRO issued solely for child support;

(c) The TRS Confidential Information form, which shall include the participant's and alternate payee's address, Social Security number, and date of birth;

(d) Copies of the participant's and alternate payee's signed Social Security cards;

(e) TRS Authorization for Direct Deposit form; and

(f) Any other documents that are required to confirm additional service credit purchased, or sought to be purchased, for retirement calculation purposes under KRS 161.220 through 161.716, including TRS Military Service Certification and Affidavit form, with a copy of the discharge papers.

(8) Within twenty (20) days of receipt of the QDRO, TRS shall notify the participant and alternate payee in writing whether the QDRO meets TRS requirements. If the QDRO meets TRS requirements, TRS shall approve the QDRO and circulate an original, signed QDRO for signature by the participant and alternate payee for submission to the court. If the participant or alternate payee is represented by legal counsel, the approved QDRO shall instead be provided to their legal counsel for signature by counsel and submission to the court. TRS shall forward a W-4P Withholding Certificate for Pension or Annuity Payments form to the alternate payee.

(9) If the QDRO does not meet TRS requirements, TRS shall notify the participant and alternate payee in writing, identifying those provisions which are not in compliance and the amendments needed to bring the QDRO into compliance. If the participant or alternate payee is represented by legal counsel, this notice shall instead be provided to their legal counsel. The amended QDRO shall be submitted to TRS for review and approval prior to filing with the court.

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

(11) If the QDRO is subsequently amended before filing with the court, the amended QDRO shall be resubmitted to TRS with a $150 nonrefundable processing fee for review and approval.

(12) Following approval by the court, the participant, alternate payee, or legal counsel shall file a certified copy of the QDRO with TRS.

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

(b) Upon receipt of the certified copy, TRS shall designate the participant's account for implementation of the QDRO.

(c) While a separate account balance shall not be maintained for the alternate payee, a separate payroll account shall be established.

(d) If the participant is a retired member, payments to the alternate payee shall commence in the calendar month following the date that a certified copy of the QDRO is received by TRS, if the alternate payee has supplied a correctly executed W-4P form. If the alternate payee either fails to return the W-4P or does not correctly execute the form, TRS shall apply the IRS default option of married with three (3) exemptions, which results in no withholding of federal tax. If the Alternate Payee chooses a different option and then provides a correctly executed W-4P, future payments shall be adjusted.

(e) If the participant is an active member, payments to the alternate payee shall commence in the calendar month in which the participant begins to receive a monthly annuity, if the alternate payee has provided his or her current address, a correctly executed W-4P and banking information as required by subsection (15) of this section. If the alternate payee either fails to return the W-4P or does not correctly execute the form, TRS shall proceed in the same manner as described in paragraph (d) of this subsection.

(f) If the participant is an active member who withdraws from service prior to eligibility for retirement and requests a refund of his or her accumulated account balance, the provisions of 102 KAR 1:060, setting forth the requirements for processing payment of the refund to the participant and the alternate payee, shall be followed. <u>If the parties fail to designate the alternate payee's share of a refund in the QDRO, TRS shall refund the entire participant's account to the participant in accordance with the provisions of this administrative regulation and 102 KAR 1:060, and TRS and its staff shall have no liability for making the refund in this manner.</u>

(13) If TRS is enforcing a QDRO that is subsequently amended or terminated by the court, then either the participant, alternate payee, or legal counsel shall submit a certified copy of the amended QDRO or order of termination to TRS for processing.

(14) The participant, alternate payee, or legal counsel shall not submit a QDRO that is not final and under consideration by an appellate court.

(15) The alternate payee shall be responsible for notifying TRS of any change in name, mailing address, or banking information.

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

(b) TRS shall contact the alternate payee at the last known mailing address on file to notify the alternate payee when an annuity benefit subject to the QDRO becomes payable.

(c) Other than sending a notice as established in paragraph (b) of this subsection, TRS shall have no duty or responsibility to search for, or locate, the alternate payee.

(d) If the notification sent to the alternate payee's last known address is returned due to the alternate payee's failure to notify TRS of an address change or if the bank notifies TRS that the alternate payee's account has been closed, within sixty (60) days of the return of the notification to the alternate payee or receipt of notification from the bank, the amounts otherwise payable to the alternate payee shall be paid to the participant until a new address or bank account information is provided by the alternate payee.

(e) TRS shall have no liability to the alternate payee with respect to amounts paid to the participant.

(16) The participant shall be responsible for notifying TRS in writing of an event that causes benefit payments to the alternate payee spouse, child, or other dependent to cease.

(a) The participant shall provide TRS with a certified copy of the alternate payee's death certificate or marriage certificate. TRS shall suspend payments due the alternate payee provided that submission of proof of the death or marriage of the alternate payee, if marriage terminates payments under the terms of the QDRO, is received by the beginning of the month following receipt of the participant's written notification.

(b) The alternate payee shall also be responsible for notifying TRS in writing of the alternate payee's remarriage if, under the terms of the QDRO, that is an event that terminates the alternate payee's right to receive any payments.

(c) TRS shall not be responsible for payments made to the alternate payee until it is given timely written notice and documentation of any event terminating those payments.

Section 4. A QDRO may apply to a participant's:

(1) Retirement allowance;

(2) Disability retirement allowance; or

(3) Termination refund.

Section 5. A QDRO shall not apply to a participant's:

(1) Survivor annuity that becomes payable after the member's death;

(2) Survivor benefits that become payable after an active contributing member's death;

(3) Accounts that are not vested at the time of the dissolution of marriage;

(4) Life insurance benefit;

(5) Refund as a result of an error;

(6) Refund of an active or retired account in response to a member's death;

(7) Health insurance; and

(8) Any other payment or benefit not described in Section 4 of this administrative regulation.

Section 6. If an alternate payee has, under the terms of the QDRO, been awarded a share of the participant's annuity benefits and dies before the participant dies, retires, or withdraws his account, the entire remaining account value shall be restored to the participant.

Section 7. Calculation and Payment.

(1)(a) If the participant has retired, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance, disability retirement allowance, or refundable account balance, accrued through the date of dissolution of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable TRS service earned during the marriage, including service credit purchased during the marriage; and

2. The denominator of which shall be the participant's total full and fractional years of TRS service credit through the date of retirement.

(b) The resulting fraction shall be converted to a percentage that shall be divided by two (2).

(c) Option C may be utilized if the duration of the retired participant and the alternate payee's marriage was less than the participant's total full and fractional years of TRS service at the date of retirement. The parties or their legal counsel shall report the marital years in Option C of the QDRO.

(2)(a) For an active account, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance, disability retirement allowance, or refundable account balance, accrued through the date of dissolution of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable TRS service earned during the marriage, including service credit purchased during the marriage, as reported by the parties or their legal counsel in Option C of the QDRO; and

2. The denominator of which shall be the participant's total full and fractional years of TRS service credit as determined by TRS at the time that the participant retires either by service retirement or disability retirement or requests a refund of his or her account balance.

(b) The resulting fraction shall be converted to a percentage that shall be divided by two (2).

(3) If the participant is or will be receiving a disability retirement allowance, the participant's total annuity benefit for purposes of this administrative regulation shall be calculated under the service retirement formula established under KRS 161.661(5), even if the entitlement period described under KRS 161.661(3) and (4) has not expired.

(4) If an alternate payee has, under the terms of the QDRO, been awarded a share of the participant's disability retirement allowance that is subsequently discontinued, the alternate payee shall not receive a benefit. Further, if a participant remains disabled at the end of his or her entitlement period, pursuant to KRS 161.661(5), the disability benefits shall be recalculated and may result in a lower monthly payment to both the participant and the alternate payee.

(5) If the QDRO is directed to an account from which the participant is not receiving a retirement allowance, the participant's total annuity benefit shall be calculated without inclusion of the discounts required under KRS 161.620(1)(b) and (d).

(a) If at retirement the participant is subject to discounts required under KRS 161.620(1)(b) and (d), and if the QDRO establishes a set dollar amount to be withheld from the retirement benefits that are payable to the participant and to be paid to the alternate payee, TRS shall reduce the amount to be paid to the alternate payee under the QDRO by the amount of the discounts.

(b) TRS shall increase the amount paid to the alternate payee in ***an*** amount equal to any discounts that are subsequently eliminated as the result of the participant's return to work after retirement under the provisions of KRS 161.605(11), upon the participant's resumption of receipt of retirement benefits.

(6) If the QDRO is directed to an account from which the participant is not receiving a retirement allowance, and the participant at issuance of the QDRO is not eligible for calculation of his total annuity benefit based on his three (3) highest salaries as provided under KRS 161.220(9), then his total annuity benefit shall be calculated on his five (5) highest salaries.

(7) The participant may select any retirement option.

Section 8. Any person who attempts to make TRS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the annuity benefits payable to the participant shall be liable to TRS for its costs and legal fees.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Teachers' Retirement System Authorization for Release of Information[~~/QDRO~~]", July 2016;

(b) "Qualified Domestic Relations Order to Divide Teachers' Retirement System Benefits", January 2019[~~July 2016~~];

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

(d) "Teachers' Retirement System Confidential Information[~~/QDRO~~]", July 2016;

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

(f) "Teachers' Retirement System Military Service Certification and Affidavit[~~/QDRO~~]", July 2016;

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

(h) "Change of Option Following Termination of Marriage", July 2016;

(i) "Change of Retirement Beneficiary", July 2016;

(j) "Designation of Beneficiary for TRS Life Insurance Benefit", July 2016;

(k) "Designation of Beneficiary for TRS Retirement Account Balance", July 2016; and

(l) "Withholding Certificate for Pension or Annuity Payments" or "W-4P", 2016.

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

(3) W-4P may also be obtained at www.irs.gov/pub/irs-pdf/fw4p.pdf.

RON SANDERS, Chairperson

APPROVED BY AGENCY: December 17, 2018

FILED WITH LRC: January 15, 2019 at noon

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

DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management
(As Amended at ARRS, April 9, 2019)

106 KAR 1:081. Kentucky Emergency Response Commission (KERC) Tier II[2] reporting and fee schedule requirements; Extremely Hazardous Substance (EHS) facility planning participation requirements.

RELATES TO: KRS 39E.020, 39E.030,***[29 C.F.R. 1910.1200, 40 C.F.R. Part 355, Appendix A, Appendix B, Part 370,]*** 39E.040, 39E.050, 39E.110, 39E.120, 39E.130, 39E.140, 39E.150,

39E.160, 39E.170, 39E.190, 39E.220, 39E.230, ***29 C.F.R. 1910.1200, 40 C.F.R. Part 355, Appendix A, Appendix B, Part 370,*** 42 U.S.C. 11001-11050

STATUTORY AUTHORITY: KRS 39E.010, 39E.040, 39E.050, 39E.120, 39E.130, 39E.210, 42 U.S.C. 11002(c), 11003(c), (d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39E.040(3) requires the KERC[~~Kentucky Emergency Response Commission~~] to develop reporting requirements and procedures for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances. KRS 39E.040(6) requires the commission to recommend administrative regulations to the director for issuance by the Division of Emergency Management to implement KRS Chapter 39E. This administrative regulation establishes the Tier II[~~2~~] reporting and facility planning participation requirements for facilities subject to 42 U.S.C. 11001 through 42 U.S.C. 11050.

Section 1. Definitions. (1) "Category" means the five (5) types of facilities and applicable category numbers, defined by[~~in~~] paragraphs (a) through (e) of this subsection, describing individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances.

(a) "Category One Facility" means any facility owned or operated by local, state, or federal government that is:

1. Exempted from paying any fee in accordance with KRS 39E.050; and

2. Not exempt from reporting requirements pursuant to KRS 39E.020, 39E.030, 39E.040, 39E.050, 39E.110, 39E.120, 39E.190, 39E.220, and 39E.230.

(b) "Category Two Facility" means any facility that has not less than 10,000 pounds and not more than 499,999 pounds of each of ten (10) or fewer hazardous substances, with the combined total of all hazardous substances not exceeding 499,999 pounds.

(c) "Category Three Facility" means any facility that has 10,000 pounds or more of each of eleven (11) or more hazardous substances, with the combined total of all hazardous substances not exceeding 499,999 pounds.

(d) Category Four Facility" means any facility that has a total inventory of over 499,999 pounds of hazardous substances.

(e) "Category Five Facility" means any facility that has an Extremely Hazardous Substance (EHS) as defined by subsection ***(4)[(5)]*** of this section[~~in excess of the threshold planning quantity (TPQ)~~].

(2) "EHS Facility Emergency Response Plan" means an emergency response plan for a facility subject to SARA Title III (Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. 11001 et seq., that:

(a) Has in its inventory an[~~extremely hazardous substance {~~]EHS[~~}~~] above Threshold Planning Quantity (TPQ); and

(b) Meets all required planning elements of SARA Title III, 42 U.S.C. 11003[~~,~~]; KRS 39E.110, [~~KRS~~] 39E.130, 39E.140, 39E.150, 39E.160, 39E.170[~~,~~] and 39E.220, and the KERC's[~~Kentucky Emergency Response Commission's~~] planning requirements found in the Responsibilities of the LEPC[~~Emergency Response Planning Guide for EHS Facilities~~: Self-Study] Course Manual[~~,~~] (KERC Document[~~:~~] 715-RL)[~~ 730-PGSS~~].

(3) "EPCRA How to Comply Packet" or "KERC Document: 700-CP" means the packet published by Kentucky Emergency Management (KYEM) that describes the steps required to be compliant with all Emergency Planning and Community Right-to-Know (EPCRA), KRS, and ***the requirements established in [KAR requirements {]***106 KAR 1:091.***[Kentucky Emergency Response Commission fee account grant requirements for Local Emergency Planning Committees)]***[~~for the current calendar year~~]***[.]***

(4)[~~"Emergency Response Planning Guide for EHS Facilities: Self-Study Manual" or "KERC Document: 730-PGSS" means the packet published by Kentucky Emergency Management, which provides instructions for the completion of each section of an EHS facility emergency response plan required to be compliant with all EPCRA, 42 U.S.C. 11001 through 11050, KRS Chapter 39E, and Title 106 KAR requirements for the current calendar year.~~

~~(5)~~] "Extremely Hazardous Substance" or "EHS" means any chemical listed on the EHS List[~~of Extremely Hazardous Substance~~] and their TPQs[~~Threshold Planning Quantities~~], codified as 40 C.F.R. Part 355, Appendix A and Appendix B.

(5)[~~(6)~~] "Facility Annual Certification Letter" or "FACL" means the annual letter provided to[~~by~~] the Local Emergency Planning Committee (LEPC) by any facility that has an EHS in excess of the TPQ to certify that the current EHS Facility Emergency Response Plan has been reviewed and:

(a) Is correct without changes; or

(b) Has been revised and the revisions are included with the FACL.

(6)[~~(7)~~] "Facility Emergency Coordinator" or "FEC" means the EHS facility representative, assigned by the owner or operator of the EHS facility and designated on the annual Tier II[~~2~~] report.

(7)[~~(8)~~] "Hazardous Chemical" means:

(a) Any chemical that is classified by 29 C.F.R. 1910.1200(d), as a physical hazard or a health hazard;***[or]***

(b) A simple asphyxiant, combustible dust, ***or*** pyrophoric gas; ***or***

(c)[~~Or~~] A hazard not otherwise classified.

(8)[~~(9)~~] "Hazardous Substance" is defined by KRS 39E.020(5).

(9)[~~(10)~~] "KERC" means the Kentucky Emergency Response Commission.

(10)[~~(11)~~] "Safety Data Sheet" or "SDS" means the Safety Data Sheets required by the Hazard Communication Standard (HCS)[~~as of June 1, 2015~~] to be generated by chemical manufacturers, distributors, or importers in order to communicate the hazards of hazardous chemical products.

Section 2. Filing Requirements. (1) A facility shall file a Tier II[~~2~~] report and pay all associated fees electronically as established in the EPCRA How to Comply Packet (KERC Document 700-CP). A paper report or check shall not be accepted.

(2)(a) The owner or operator of a facility that is required to prepare or have available a safety data sheet for a hazardous chemical present at the facility shall submit a Tier II[~~2~~] Report prepared in accordance with the KERC's Tier II submitting process[~~U.S. EPA's Tier2Submit 20xx Self-Study Manual, form 720A-T2SSS~~].

(b) The SDS requirements shall be as established in 29 C.F.R. 1910.1200, Hazard communication Standard.

(c) A facility subject to the annual chemical inventory reporting requirements established in KRS 39E.210 and 42 U.S.C. 11022 shall submit the completed Tier II[~~2~~] Report:

1. No later than March 1 each year; and

2. To each of the following organizations:

a. The KERC;

b. The LEPC[~~local emergency planning committee~~]; and

c. The fire department with jurisdiction over the facility.

(3) A facility shall report hazardous chemicals that were present at the facility at any time during the previous calendar year at a level equal to or in exceedance of the reporting threshold.

(a) The minimum reporting thresholds shall be as[~~are~~] established at 40 C.F.R. Part 370.

(b) The EPCRA chemical exemptions shall be those exemptions established in 40 C.F.R. Part 370.

(c) The exemptions established in 29 C.F.R. 1910.1200(b)(5) and (6) shall govern the preparation and availability of a Safety Data Sheet.

Section 3. Fees. (1) Except as established[~~provided~~] in subsection (2) of this section, a facility that is not exempt shall pay the applicable fee established in this subsection.

(a) There shall not be a fee for a Category One Facility.

(b) The fee for a Category Two Facility shall be forty (40) dollars.

(c) The fee for a Category Three Facility shall be $250.

(d) The fee for a Category Four Facility shall be $250.

(e) The fee for a Category Five Facility shall be $250.

(f) Maintenance and access fees, late fees, and fines shall be utilized for the administration of the KERC program.

(2) If the same owner or owners have two (2) or more facilities in a single county subject to paying a fee, the owner or owners

shall pay the fees as established in subsection (1) of this section, not to exceed a total of $250 for all those facilities in that county.

(3) An owner or operator who violates this administrative regulation shall be subject to the penalties established in KRS 39E.990.

Section 4. EHS Facility Planning Participation Requirements. (1) In accordance with the planning requirements of KRS 39E.120 and KRS 39E.130, 42 U.S.C. 11002(c) and 11003(c)(d), no later than sixty (60) days after a facility notifies the KERC[~~Kentucky Emergency Response Commission~~] that it is subject to the requirements of this section, the facility shall:

(a) Provide emergency response planning information to the LEPC[~~local emergency planning committee~~]; and

(b) Assist the LEPC[~~local emergency planning committee~~] in developing an EHS Facility Emergency Response Plan for all EHS[~~extremely hazardous substances~~] in accordance with the Responsibilities of the LEPC [~~Emergency Response Planning Guide for EHS Facilities~~: Self-Study] Course Manual.

(2) After initial submission and approval of the EHS Facility Emergency Response Plan in accordance with subsection (1) of this section, each March 1 any facility that has an EHS[~~extremely hazardous substance~~] in excess of the [~~threshold planning quantity~~ {]TPQ[}] shall review the EHS Facility Emergency Response Plan and send a FACL[~~facility annual certification letter~~] to the LEPC[~~local emergency planning committee~~].

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

(a) "Responsibilities of the LEPC[~~Emergency Response Planning Guide for EHS Facilities: Self-Study~~]: Course Manual[~~",~~] (KERC Document[~~;~~] 715-RL), 2018 edition[~~ 730-PGSS, 2017~~];

(b) "EPCRA How to Comply Packet", KERC Document; 700-CP, 2017; and

(c) "The EPA's Tier_II[~~2~~]Submit 20xx Self-Study Manual", 720A-T2SSS Course Manual, 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, Monday through Friday, 8:00 a.m. to 4:30 p.m.

STEVEN P. BULLARD, Director

APPROVED BY AGENCY: February 4, 2019

FILED WITH LRC: February 13, 2019 at noon

CONTACT PERSON: Mr. Steven P. Bullard, Director of Administrative Services, Office of Management and Administration, Department of Military Affairs, phone 502-607-1738, fax 502-607-1240, email steven.p.bullard.nfg@mail.mil.

DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management
(As Amended at ARRS, April 9, 2019)

106 KAR 1:091. Kentucky Emergency Response Commission (KERC) fee account grant requirements for Local Emergency Planning Committees (LEPCs).

RELATES TO: KRS 39E.040, 39E.050, 39E.110, 39E.130, 39E.140, 39E.150, 39E.160, 39E.170, 39E.220, 39E.230, 61.800, 61.805, 61.810, 61.820, 61.823, 61.826, 61.835, Chapter 424, 40 C.F.R. Part 355, Appendix A, Appendix B, 42 U.S.C. 11001-11050

STATUTORY AUTHORITY: KRS 39E.040, 39E.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39E.040(3) requires the KERC[~~Kentucky Emergency Response Commission~~] to develop reporting requirements and procedures for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances. KRS 39E.040(6) requires the ***commission[KERC]***[~~commission~~]to recommend administrative regulations to the director for issuance by the Division of Emergency Management to implement KRS Chapter 39E. This administrative regulation establishes criteria and procedures to be met by LEPCs[~~local emergency planning committees~~] requesting funds generated by KRS 39E.050.

Section 1. Definitions. (1) "Extremely Hazardous Substance***[, or EHS,]*** Facility Emergency Response Plan" ***or "EHS Facility Emergency Response Plan"*** means an emergency response plan for a facility subject to SARA Title III (Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. 11001 et seq., that:

(a) Has in its inventory an[~~extremely hazardous substance~~ {]EHS[}] above Threshold Planning Quantity (TPQ); and

(b) Meets all required planning elements of SARA Title III, 42 U.S.C. 11003, KRS 39E.110, KRS 39E.130, KRS 39E.140, KRS 39E.150, KRS 39E.160, KRS 39E.170,[~~and~~] KRS 39E.220, and the KERC's[~~Kentucky Emergency Response Commission's~~] planning requirements found in the Responsibilities of the LEPC[~~Emergency Response Planning Guide for EHS Facilities:~~] Course**:**[~~Self-Study~~] Manual[~~,~~] (KERC Document[~~:~~] 715-RL)[~~ 730-PGSS~~], incorporated by reference in 106 KAR 1:081.

(2) "EHS (Extremely Hazardous Substance) Facility Emergency Response Plan Checklist" or "KERC Form: 303-PC" means the checklist completed by all LEPCs and submitted to the KERC EHS Planner[~~their Kentucky Emergency Management (KYEM) area manager (AM)~~] for all EHS Facility Emergency Response Plans requiring submission to the KERC for approval and in accordance with the Responsibilities of the LEPC Course**:**[~~Emergency Response Planning Guide for EHS Facilities: Self-Study~~] Manual (KERC Document[~~;~~] 715-RL)[~~ 730-PGSS~~], incorporated by reference in 106 KAR 1:081.[~~(3) "Emergency Response Planning Guide for EHS Facilities: Self-Study Manual" or "KERC Document: 730-PGSS" means the packet, incorporated by reference in 106 KAR 1:081, published by Kentucky Emergency Management, which provides instructions for the completion of each section of an EHS Facility Emergency Response Plan required to be compliant with all EPCRA, 42 U.S.C. 11001 through 11050, KRS Chapter 39E, and Title 106 KAR requirements for the current calendar year.~~]

(3)[~~(4)~~] "Grant Ledger" or "KERC Form: 105-GL" means the form LEPCs are required to use to record all of the checks, cash payments, and outlays of cash in the "(Name of Planning District[~~County~~]) Emergency Planning Committee Fee Account" during the calendar year, January 1 through December 31.

(4)[~~(5)~~] "KERC Document Library" or "KERC Document: 001-LIB" means a compilation of documents[~~the packet published and annually~~] continually reviewed and updated by the KERC[~~Kentucky Emergency Response Commission (KERC)~~] that contains pertinent information for LEPCs[~~the complete library of required and optional materials, including all aspects of LEPC planning and grants~~].

(5)[~~(6)~~] "LEPC Annual Certification Letter (ACL)" or "KERC Form 302-ACL" means the letter annually submitted by the LEPC[~~local emergency planning committee (LEPC)~~] listing the status of all EHS Facility Emergency Response Plans in the planning district, which includes information that was received from covered facilities by March 1, for the previous calendar year, and in accordance with all ACL requirements found in the Responsibilities of the LEPC[~~Emergency Response Planning Guide for EHS Facilities:~~] Course[~~Self-Study~~] Manual[~~,~~] (KERC Document[~~:~~] 715-RL)[~~730-PGSS~~].

(6)[~~(7)~~] "LEPC Detailed Budget" or "KERC Form: 102-DB" means the form submitted by LEPCs annually identifying by category, all intended purchases and expenses for the upcoming calendar year using, if approved, KERC grant funds[~~in accordance with the LEPC Grant Applications Manual KERC Document: 710-GASS~~].

(7)[~~(8)~~] "LEPC Grant Application" or "KERC Form: 101-GA" means the form submitted by LEPCs initially requesting KERC grant funds in accordance with the Responsibilities of the LEPC: Course Manual (KERC Document 715-RL)[~~LEPC Grant Applications Manual KERC Document: 720-GASS~~].

(8)[~~(10)~~] "LEPC Membership Cover Page or "KERC Form 104-MCP" means the cover letter submitted by LEPCs with their annually required submission of an updated membership list that serves as a checklist, ensuring all representatives required by EPCRA, 42 U.S.C. 11001 through 11050, and KRS Chapter 39E are included within each LEPC membership.

(9) "LEPC Supplemental Funds Application: KERC Fee Account Grant (KERC Form 505-SPA)" means the application form used by an LEPC to apply for supplemental funds from the KERC, or used by an LEPC to earmark funds from one (1) grant year to the next for an LEPC Additional Funding Allocation Project.[~~(9) "LEPC Grant Applications Manual" or "KERC Document: 720-GASS" means the packet, annually updated and published by Kentucky Emergency Management, which provides instructions for the request for assistance through the KERC grant funds, including templates for all forms required for the current calendar year.~~]

(10)[~~(11)~~] "Personal Property Inventory or "KERC Form: 103-PPI" means the form submitted by LEPCs annually listing all property exceeding $500 purchased using KERC grant funds[~~in accordance with the LEPC Grant Applications Manual KERC Document: 720-GASS~~].

(11)[~~(12)~~] "Public (Legal) Notice Advertisement" means the template established in Section 7 of this administrative regulation and used by LEPCs to meet the EPCRA, 42 U.S.C. 11001 through 11050, requirements found in Section 324, which require that each LEPC annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, and inventory forms have been submitted.

(12) "Responsibilities of the LEPC: Course Manual (KERC Document 715-RL)" means the packet, annually updated and published by KYEM, which provides an introductory look at LEPCs including the laws and regulations that govern them, instructions for the request for assistance through the KERC grant funds, and an understanding of the federal and state requirements for EHS Facility Emergency Response Plans.

Section 2. LEPC Eligibility Requirements. (1) To be eligible for financial assistance, LEPCs[~~local emergency planning committees~~] that have[~~extremely hazardous substances (~~]EHS[~~)~~] as listed in 40 C.F.R. 355, Appendices A and B, in excess of the TPQ present in their community shall meet all the criteria established in this subsection during the preceding calendar year (January 1 through December 31).

(a) The LEPC[~~local emergency planning committee~~] shall meet all requirements established[~~set forth~~] in KRS 39E.110.

(b) The LEPC[~~local emergency planning committee~~] shall have an EHS Facility Emergency Response Plan that has been approved by the KERC pursuant to KRS 39E.110(1)(a), (e)[~~,~~] and (f) and 39E.150 as set out in the Responsibilities of the LEPC[~~Emergency Response Planning Guide for EHS Facilities:~~] Course:[~~Self-Study~~] Manual (KERC Document[~~;~~] 715-RL)[~~730-PGSS,~~] for each facility in the planning district that has an[~~extremely hazardous substance (~~]EHS[~~)~~] in excess of the TPQ.

1. The LEPC[~~local emergency planning committee~~] shall submit a completed EHS Facility Emergency Response Plan Checklist[~~,~~] (KERC Form: 303-PC)[~~,~~] with all EHS Facility Emergency Response Plans submitted for KERC approval.

2. The LEPC [~~local emergency planning committee~~] shall submit new EHS Facility Emergency Response Plans to the KERC EHS Planner[~~Kentucky Emergency Management (KYEM) area manager (AM)~~] within sixty (60) days of notification that the facility has an[~~extremely hazardous substance (~~]EHS[~~)~~] in excess of the [~~threshold planning quantity (~~]TPQ[~~)~~].

3. The KERC EHS Planner[~~KYEM AM~~] shall review new EHS Facility Emergency Response Plans and their accompanying checklists for completeness.

a. Complete plans shall be forwarded to the Chairman of the KERC[~~Kentucky Emergency Response Commission~~], or designee, within thirty (30) days of receipt from the LEPC[~~local emergency planning committee~~].

b. Incomplete plans shall be returned to the LEPC[~~local emergency planning committee~~] with recommendations.

(c) The LEPC[~~local emergency planning committee~~] shall meet at least twice during each calendar year (January 1 through December 31) to conduct its business, and a quorum shall be required. A copy of the minutes shall be provided to the chairman of the KERC [~~Kentucky Emergency Response Commission~~], or designee, within thirty (30) days of the date of the meeting pursuant to KRS 39E.110(2).

(d)1. No later than November 30[~~January 31~~] each calendar year (January 1 through December 31) in accordance with KRS Chapter 424, Legal Notices, the LEPC[~~local emergency planning committee~~] shall publish public information on LEPC[~~committee~~] activities in the following year as established[~~set out~~] in Section 7 of this administrative regulation.

2. No later than December 31[~~February 28~~], each LEPC[~~local emergency planning committees~~] shall provide the Chairman of the KERC[~~chairman~~], or designee, with a photocopy of the legal notice published established in Section 7 of this administrative regulation clearly showing the name of the newspaper and the date of publication.

(e) No later than February 28, the LEPC shall submit the LEPC Grant Application (KERC Form 101-GA) to the KERC LEPC Coordinator. The KERC LEPC Coordinator shall review the grant request form for completeness and conformance to KRS Chapter 39E and ***KAR*** Title 106***[KAR]***.

(f) No later than November 30 each year, the LEPC shall submit an updated membership list and LEPC Membership Cover Page (KERC Form 104-MCP) to the chairman of the KERC or designee.

(g) No later than November 30 each year, the bylaws of each LEPC shall be provided to the chairman of the KERC or designee, with certification stating that:

1. There were no changes; the bylaws are identical to last year; or

2. The bylaws have been revised and the revisions are included.

(h) The bylaws shall identify the position or person who shall be responsible for accountability for the funds and who shall be listed as the authorized applicant as shown on the Grant Application (KERC Form: 101-GA).

(i) No later than November 30, LEPCs shall submit a Personal Property Inventory (KERC Form: 103-PPI) identifying all property items valued in excess of $500 purchased using KERC grant funds.

(j)[~~After new equivalent plans are submitted, n~~]No later than April 1 each year, the LEPC[~~local emergency planning committee~~] shall review all existing EHS Facility Emergency Response Plans and send an Annual Certification Letter (ACL) to the KERC EHS Planner [~~Kentucky Emergency Management (KYEM) area manager (AM)~~] stating that:

1.[~~a.~~] There were no changes;[~~and therefore~~] the plan is correct as is; or

2.[~~b.~~] The plan has been revised and the revisions are included with the ACL.

(k)[~~2.~~] The KERC EHS Planner[~~KYEM AM~~] shall review the ACL and all EHS Facility Emergency Response Plan revisions received from the LEPC[~~local emergency planning committee~~] for completeness.

1.[~~a.~~] Complete plans shall be forwarded to the[~~KERC~~]chairman of the KERC[~~,~~] or designee[~~,~~] no later than May 1 each year.

2.[~~b.~~] Incomplete plans shall be returned to the LEPC[~~local emergency planning committee~~] with recommendations.[~~(f)1. No later than April 1, the local emergency planning committee shall submit Grant Application, KERC Form: 101-GA, to the KYEM AM.~~

~~2. The KYEM AM shall review the grant request form for completeness and conformance to KRS Chapter 39E and Title 106 KAR.~~

~~a. Complete grant applications shall be forwarded to the KERC chairman, or designee, no later than May 1 each year.~~

~~b. Incomplete grant applications shall be returned to the local emergency planning committee with recommendations.~~]

(l)[~~(g) No later than April 1, the local emergency planning committee shall provide~~] The LEPC shall provide the[~~KERC~~] chairman of the KERC, or designee, documentation of expenditures, including bank statements, canceled checks, invoices, receipts, and a Grant Ledger[~~,~~] (KERC Form: 105-GL)[~~,~~] on a quarterly basis[~~for the preceding year~~]. The final due date for submissions of documents from the final quarter of the preceding year shall be no later than January 31.

(m)[~~(h)~~] No later than June [~~1~~]30, local emergency planning

committees shall submit a LEPC Detailed Budget[,] (KERC Form: 102-DB)[,] to the chairman of the KERC,[Kentucky Emergency Response Commission] or designee, identifying how the funds requested on the LEPC Grant Application are to be spent.[(i) No later than December 1 each year, the local emergency planning committee shall submit an updated membership list and LEPC Membership Cover Page, KERC Form 104-MCP, to the KERC chairman, or designee.

(j)1. No later than December 1 each year, the bylaws of each local emergency planning committee shall be provided to the KERC chairman, or designee, with certification stating that:

a. There were no changes and therefore the bylaws are identical to last year; or

b. The bylaws have been revised and the revisions are included.

2. The bylaws shall identify the position or person who will be responsible for accountability for the funds and who will be listed as the authorized applicant as shown on the Grant Application, KERC Form: 101-GA.

(k) No later than December 1, local emergency planning committees shall submit a Personal Property Inventory, KERC Form: 103-PPI, identifying all property items valued in excess of $500 purchased using KERC grant funds.]

(2) To be eligible for financial assistance, LEPCs[local emergency planning committees] that do not have any EHS[extremely hazardous substance as defined in 106 KAR 1:081, Section 1,] in excess of the TPQ present in their community shall meet the criteria established in this subsection during the preceding calendar year (January 1 through December 31).

(a) The LEPC[local emergency planning committee] shall meet criteria established[set forth] in KRS 39E.110(1)(b), (c), (d), (2), (4), (5), and subsection (1)(c) and (d)[, (f), (g), (h), (i), (j), and (k)] of this section.

(b) The LEPC[local emergency planning committee] shall meet at least once during each calendar year (January 1 through December 31) to conduct its business and a quorum shall be required. A copy of the minutes shall be provided to the chairman of the KERC[Kentucky Emergency Response Commission], or designee, within thirty (30) days of the date of the meeting pursuant to KRS 39E.110(2).

Section 3. KERC Grant Review Procedures. (1) The KERC staff, [KYEM AM,] the[KERC] chairman of the KERC or designee, or the Grant Review Committee may request additional information that shall be provided by the LEPC[local emergency planning committee]. Failure to provide the requested information shall invalidate the LEPC's[local emergency planning committee's] request for funding.

(a) The[KERC] chairman of the KERC, or designee, shall annually update, publish, and promulgate all grant requirements in the Responsibilities of the LEPC (KERC Document 715-RL)[LEPC Grant Applications Manual (KERC Document #720-GASS)].

(b) The [KERC] chairman of the KERC, or designee, shall annually review, publish, and promulgate, through incorporation by reference in an administrative regulation, all grant required KERC forms in the KERC Document Library (KERC Document {#}001-LIB).

(2) The schedule of due dates shall be as established in this subsection.

(a) No later than March 30[June 1], the KERC LEPC Coordinator[chairman, or designee,] shall***:***

1. Review the grant request form for completeness and conformance to [statutes and]***[administrative regulations (]***106 KAR 1:101, Kentucky Emergency Response Commission fee account grant requirements for state agencies***,[; and]*** 106 KAR 1:111, Kentucky Emergency Response Commission Fee Account Grant Review Committee***, and[;]*** 106 KAR 1:121, Kentucky Emergency Response Commission fee account grant distribution formula***;***

2.[),] Note any recommendations***; and***

3. Forward the items established in subparagraphs 1. and 2. of this paragraph[, and forward it] to the Grant Review Committee.

(b) No later than May 30[July 1], the Grant Review Committee, with a quorum present, shall review all grant requests[and LEPC Detailed Budgets, KERC Form: 102-DB,] and forward[their] recommendations to the KERC for final approval.

(c) No later than July 30[September 15], the KERC shall make the grant awards pursuant to this administrative regulation.

Section 4. Requests for Modifications. (1) A modification of a grant award shall be required if there is a change in the grant request or if an LEPC[a local emergency planning committee] is unable to expend the funds for the purpose for which the grant was awarded.

(a) A request for modification shall be submitted by the LEPC for approval by the commission.

(b) Unexpended monies shall be returned to the KERC fee account fund.

(2) Requests for modifications of grant awards shall be submitted on an LEPC Detailed Budget, KERC Form[:] 102-DB, and, except for due dates, shall be processed in accordance with Sections 2 and 3 of this administrative regulation.

(3) Modifications may be submitted throughout the grant period.

Section 5. Supplemental Grant Awards. (1) In the event supplemental money is available, the KERC shall determine the date of the supplemental allocation award and inform the LEPCs[local emergency planning committees] of that date.

(2) Requests for supplemental money shall be submitted on an LEPC Supplemental Funds Application: KERC Fee Account Grant (KERC Form 505-SPA)[a Grant Application, KERC Form #101-GA, and LEPC Detailed Budget, KERC Form: 102-DB,] and, except for due dates, shall be processed in accordance with this section and Sections 2 and 3 of this administrative regulation.

(3) If ***the[a]*** LEPC[local emergency planning committee] requests supplemental money, the schedule of due dates shall be as established in this subsection.

(a) ***No later than*** thirty (30) days from notification by the KERC of the availability of supplemental LEPC money, the LEPC[local emergency planning committee] shall submit the supplemental LEPC Supplemental Funds Application: KERC Fee Account Grant (KERC Form 505-SPA)[Grant Application, KERC Form: 101-GA, and LEPC Detailed Budget, KERC Form: 102-DB,] to the KERC Program Manager[KYEM AM].

(b) ***No later than*** thirty (30) days from receipt of the supplemental grant request, the KERC Program Manager[KYEM AM] shall review the supplemental grant request documents for completeness and conformance to[statutes and]***[administrative regulations (]***106 KAR 1:101. Kentucky Emergency Response Commission fee account grant requirements for state agencies***,[; and]*** 106 KAR 1:111. Kentucky Emergency Response Commission Fee Account Grant Review Committee***, and[;]*** 106 KAR 1:121***,[.]*** Kentucky Emergency Response Commission fee account grant distribution formula***[)]***.

1. Complete fund[grant] applications shall be forwarded to the Grant Review Committee[with the LEPC Detailed Budget, KERC Form: 102-DB, to the KERC chairman, or designee].

2. Incomplete fund[grant] applications shall be returned to[with] the LEPC[Detailed Budget, KERC Form: 102-DB, to the local emergency planning committee] with recommendations.

(c)[Thirty (30) days from receipt of the supplemental grant request, the KERC chairman, or designee, shall review the supplemental grant request in accordance with Section 3 of this administrative regulation and forward it to the Grant Review Committee.

(d)] Forty-five (45) days from receipt of the supplemental grant request, the Grant Review Committee, with a quorum present, shall review the supplemental grant request in accordance with Section 3 of this administrative regulation and forward their recommendations to the KERC.

(d)[(e)] ***No later than*** thirty (30) days from receipt of the recommendation of the Grant Review Committee, the KERC shall make the supplemental grant award pursuant to this administrative regulation.

Section 6. Requirements for Funding Accountability. (1) Funds provided by the KERC shall be deposited in a separate "(Name of Planning District[~~County~~]) Emergency Planning Committee Fee Account" and fiscal accountability shall be prescribed by the state auditor of public accounts. All funds shall be subject to audit by the KERC and the state auditor of public accounts.

(2) Grant awards approved by the KERC may be withheld for noncompliance with KRS 39E.050 and this administrative regulation or[~~and~~] for failure to provide required documentation.

(3) All funding allocation decisions shall be made by the KERC and shall be dependent upon availability of fees collected.

(4) Unexpended monies may[~~shall~~] be carried over into the next grant cycle, if the LEPC has submitted an LEPC Supplemental Funds Application: KERC Fee Account Grant (KERC Form 505-SPA) and was approved by the KERC[~~returned to the Kentucky Emergency Response Commission fee account fund~~].

(a) Once funds have been designated for an LEPC Additional Funding Allocation Project, the LEPC shall not reallocate the funds for alternate purpose.

(b) If an LEPC becomes noncompliant and is ***therefore[~~deemed~~]*** ineligible for funding, the LEPC shall be allowed one (1) grant cycle in which to regain compliance.

(c) Failure to regain compliance may result in the KERC requiring that LEPC Supplemental Funding be returned to the KERC Fee Account Fund.

Section 7. ["]Public (Legal) Notice Advertisement["] Template. (1) LEPCs shall use the template established in this section to comply with EPCRA, 42 U.S.C. 1101 through 11050, and annual requirements established in Section 324, Title III of the 1986 Federal Superfund Amendments and Reauthorization Act (SARA) of 1986, 42 U.S.C. 11001 et seq.

(2) Template:

PUBLIC (LEGAL) NOTICE ADVERTISEMENT

_____ COUNTY EMERGENCY PLANNING COMMITTEE

Pursuant to Section 324, Title III of the 1986 Federal Superfund Amendments and Reauthorization Act (SARA) of 1986, 42 U.S.C. 11001 et seq., the following information is provided in compliance with the Community Right-to-Know requirements of the SARA Law, and the open meetings and open records provisions of KRS 61.800, 61.805, 61.810, 61.823, 61.826, and 61.835. Members of the public may contact the (name of county) County Emergency Planning Committee by writing (name of chairman), chairman of the (name of county) County Emergency Planning Committee, (working address of chairman or committee), (city), Kentucky (zip code), or contacted by telephone at (area code), (telephone number established by the committee). The (name of county) County Emergency Planning Committee conducts meetings at (name of building), (local address), or at other locations, in accordance with the Kentucky Open Meetings Law. Members of the public may request to be notified of regular or special meetings as provided in KRS 61.820. Records of the Planning Committee, including the county emergency response plan, material safety data sheets, and inventory forms, or any follow-up emergency notices as may subsequently be issued, are open for inspection, and members of the public who wish to review these records may do so (normal hours of business), (Eastern or Central Time), (days of the week), at (location of the office or place where custodian keeps the committee files), as required by the Kentucky Open Records Law. The local 24-hour telephone number for purposes of emergency notification, as required by the SARA Law, is (emergency number adopted by county planning committee).

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

(a) "Grant Ledger["~~,~~] (KERC Form: 105-GL)", January 2017;

(b) "Responsibilities of the LEPC: Course Manual (KERC Document 715-RL), 2018"[~~LEPC Grant Applications Self-Study Manual", KERC Document 720-GASS, 2016~~];

(c) "LEPC Annual Certification Letter (ACL)["~~,~~] (KERC Form 302-ACL)", January 2017;

(d) "LEPC Detailed Budget["~~,~~] (KERC Form: 102-DB)", January 2017;

(e) "LEPC Grant Application["~~,~~] (KERC Form: 101-GA)", January 2017;

(f) "LEPC Membership Cover Page["~~,~~] (KERC Form 104-MCP)", January 2017;

(g) "Personal Property Inventory["~~,~~] (KERC Form: 103-PPI)", January 2017;[~~and~~]

(h) "KERC Document Library["~~,~~] (KERC Document: 001-LIB)", 2016~~.~~;

(i) "LEPC - EHS Facility Emergency Response Plan Checklist", 2015; and

(j)[~~and~~

~~(i)~~] "LEPC Supplemental Funds Application: KERC Fee Account Grant (KERC Form 505-SPA)", January 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, Monday through Friday, 8:00 a.m. to 4:30 p.m.

STEVEN P. BULLARD, Director, Administrative Services

APPROVED BY AGENCY: February 4, 2019

FILED WITH LRC: February 13, 2019 at noon

CONTACT PERSON: Steven P. Bullard, Director of Administrative Services, Office of Management and Administration, Department of Military Affairs, phone 502-607-1738, fax 502-607-1240, email steven.p.bullard.nfg@mail.mil.

DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management
(As Amended at ARRS, April 9, 2019)

106 KAR 1:111. Kentucky Emergency Response Commission (KERC) Fee Account Grant Review Committee.

RELATES TO: KRS 39E.040, 39E.050, 39E.080, 39E.110, 39E.140, 39E.150

STATUTORY AUTHORITY: KRS 39E.040(3), (6), 39E.050, 39E.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39E.040(3) requires the KERC[~~Kentucky Emergency Response Commission~~] to develop reporting requirements and procedures for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances. KRS 39E.040(6) requires the ***commission[~~KERC~~]***[~~commission~~] to recommend administrative regulations to the director for issuance by the Division of Emergency Management to implement KRS Chapter 39E. This administrative regulation establishes the KERC[~~Kentucky Emergency Response Commission~~] Grant Review Committee to review requests for financial assistance.

Section 1. Purpose of the Grant Review Committee. (1) The Grant Review Committee shall review all grant requests from Local Emergency Planning Committees (LEPCs) and state agencies and make recommendations to the KERC[~~Kentucky Emergency Response Commission~~].

(2) The Grant Review Committee shall monitor all grant awards to ensure compliance with KRS Chapter 39E and KAR Title 106.

Section 2. Grant Review Committee Organization. (1) The Grant Review Committee shall consist of not less than five (5) nor more than nine (9) members of the KERC[~~Kentucky Emergency Response Commission~~] who shall be appointed by the chairman of the KERC[~~Kentucky Emergency Response Commission~~] with approval of the KERC[~~commission~~].

(2) The chairman of the Grant Review Committee shall be elected by members of the Grant Review Committee.

(3) Members shall serve for a term of one (1) year and may be reappointed.

(4)[~~Proxy votes or proxy membership shall not be permitted.~~

~~(5)~~] If a member has three (3)[~~misses two (2)~~] consecutive unexcused absences in two (2) consecutive years[~~meetings~~], the position shall be considered vacant and the chairman of the KERC[~~Kentucky Emergency Response Commission~~], with the

approval of the KERC[~~Kentucky Emergency Response Commission~~], shall appoint a replacement.

(5)[~~(6)~~] A quorum shall be required for all[~~the~~] Grant Review Committee meetings.

STEVEN P. BULLARD, Director, Administrative Services

APPROVED BY AGENCY: February 4, 2019

FILED WITH LRC: February 13, 2019 at noon

CONTACT PERSON: Steven P. Bullard, Director of Administrative Services, Office of Management and Administration, Department of Military Affairs, phone 502-607-1738, fax 502-607-1240, Email steven.p.bullard.nfg@mail.mil.

DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management
(As Amended at ARRS, April 9, 2019)

106 KAR 1:121. Kentucky Emergency Response Commission (KERC) fee account grant distribution formula.

RELATES TO: KRS 39E.050, 42 U.S.C. 11000, et seq.

STATUTORY AUTHORITY: KRS 39E.040(3), (6), 39E.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39E.040(3) requires the Kentucky Emergency Response Commission to develop reporting requirements and procedures for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances. KRS 39E.040(6) requires the commission to recommend administrative regulations to the director for issuance by the Division of Emergency Management to implement KRS Chapter 39E. This administrative regulation establishes administrative support and the grant distribution formula to be used in awarding grants for funds generated by KRS 39E.050.

Section 1. Local Emergency Planning Committee (LEPC) Grant Distribution Formula. (1) The collection of maintenance and access fees, late fees, and fines shall be required for the administration of the KERC program. At least fifty (50) percent of funds collected annually pursuant to KRS 39E.050 shall be awarded to eligible LEPCs [~~local emergency planning committees~~] that submit grant requests for administration, development, and implementation of the Kentucky Emergency Planning and Community Right-to-Know Program, known as SARA Title III (Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. 11001, et seq., within the guidelines mandated by 42 U.S.C. 11001(a), (b), and (c), Section 301, and KRS 39E.050.

(2) The grant distribution formula to determine how much money will be available to each LEPC[~~local emergency planning committee~~] shall be:

(a) Ten (10) percent of the total amount (A) collected by March 1 divided by the total number of counties in the state[~~all eligible local emergency planning committees~~].

$$.1 \times \frac{A}{\text{Total Counties}}$$

$$[\frac{.1(A)}{\text{Eligible Local Emergency Planning Committees}}]$$

Hypothetical example:

$$.1 \times \frac{\$500{,}000}{120} = \$416.67 \qquad [\frac{.1 \times (\$200{,}000)}{120} = 167]$$

(b) Plus twenty (20) percent of the total amount (A) collected by March 1[~~statewide~~] times the ratio of KERC[~~Kentucky Emergency Response Commission~~] - required and approved EHS Facility Emergency Response Plans (Qc) in the planning district[~~county~~] to the total KERC[~~Kentucky Emergency Response Commission~~] - approved (Qs) in the state.

$$.2(A)\frac{Qc}{Qs}$$

Hypothetical example:

$$.2 \times (\$500{,}000) \times \left(\frac{4}{1171}\right) = \$341.59$$

$$[.2(200{,}000)\frac{13}{1{,}000} = \$520]$$

(c) Plus twenty (20) percent of the total amount (A) collected by March 1[~~statewide~~] times the ratio of Tier II Reports[~~Tiers~~] (Tc) in the planning district[~~county~~] to the total number of Tier II Reports[~~Tiers~~] (Ts) in the state.

$$.2(A)\frac{Tc}{Ts} \qquad [.2(a)\frac{Tc}{Ts}]$$

Hypothetical example:

$$.2 \times (\$500{,}000) \times \left(\frac{11}{5{,}541}\right) = \$198.52$$

$$[.2(200{,}000)\frac{30}{1{,}000} = \$1{,}200]$$

(3) The grant (Gr) distribution formula to determine how much money an eligible LEPC[~~local emergency planning committee~~] that submits a grant request form may receive ***shall be[is]***:

$$Gr = \left(\frac{.1 \times A}{\text{Total[Eligible] LEPCs}}\right) + .2(A)\frac{Qc}{Qs} + .2(A)\frac{Tc}{Ts}$$

Section 2. Notice of Amount of Availability of Funds to Each LEPC[~~Local Emergency Planning Committee~~]. (1) No later than April 30[~~May 1~~] each year, the KERC[~~Kentucky Emergency Response Commission~~] shall notify the LEPCs[~~local emergency planning committees~~] how much money will be available to each LEPC[~~local emergency planning committee~~] that submits a grant request form. This amount shall be based upon the total amount of funds available in the KERC[~~Kentucky Emergency Response Commission~~] fee account divided pursuant to Section 1 of this administrative regulation.

(2) Notification of money available shall not be construed as an automatic grant award to an LEPC[~~a local emergency planning committee~~]. Each LEPC[~~eligible local emergency planning committee~~] who wants an award shall submit a grant request form and required grant documentation in accordance with 106 KAR 1:091.

(3) LEPCs ***that[who]*** do not submit a grant request form and all required documentation in accordance with 106 KAR 1:091 shall not be eligible for grant funds.

(a) Funds allotted for ineligible LEPCs, per the grant distribution formula ***established*** in Section 1(3) of this administrative regulation, shall be transferred to the KERC Fee Account Fund for use as supplemental grant awards.

(b) The KERC shall award supplemental grant funding to eligible LEPCs in accordance with 106 KAR 1:091, Section 5.

Section 3. State Agency Grant Distribution. No more than fifty (50) percent of funds collected annually by KRS 39E.050 shall be allocated by the KERC[~~Kentucky Emergency Response Commission~~] to state agencies, other than LEPCs[~~local emergency planning committees~~] that submit grant requests for administration, development, and implementation of the Kentucky Emergency Planning and Community Right-to-Know program, known as SARA Title III (***Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. 11001 et seq.,[as amended through Pub. L. 107–377, December 31, 2002]***), and KRS 39E.050.

Section 4.[~~Availability of~~] Additional Funds.[~~The Kentucky Emergency Response Commission may set a date and notify all local emergency planning committees and state agencies of the availability of additional~~] Funds collected after March 1, or that were returned to the commission during the year,[~~.~~] shall be carried over into the next grant cycle and[~~Any additional funds~~] shall be distributed in accordance with Sections 1(1) and 3 of this administrative regulation.

Section 5. Administrative support required by KRS 39E.050 shall be provided by the Kentucky Division of Emergency Management.

STEVEN P. BULLARD, Director, Administrative Services
APPROVED BY AGENCY: February 4, 2019
FILED WITH LRC: February 13, 2019 at noon
CONTACT PERSON: Steven P. Bullard, Director of Administrative Services, Office of Management and Administration, Department of Military Affairs, phone 502-607-1738, fax 502-607-1240, Email steven.p.bullard.nfg@mail.mil.

GENERAL GOVERNMENT
Board of Physical Therapy
(As Amended at ARRS, April 9, 2019)

201 KAR 22:020. Eligibility and credentialing procedure.

RELATES TO: KRS 164.772, 327.010, 327.050, 327.060, 327.075, 327.080, 327.310
STATUTORY AUTHORITY: KRS 327.040(1), (11), (13)
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 327.040(1) requires the board to determine if physical therapist applicants meet the qualifications and standards required by KRS Chapter 327. KRS 327.040(13) authorizes the board to promulgate administrative regulations regarding the qualifications for physical therapist assistants. This administrative regulation establishes the criteria for eligibility, methods, and procedures of qualifying for a credential to practice physical therapy in Kentucky.

Section 1. An application shall be accepted for credentialing as a physical therapist or physical therapist assistant based on successful completion by the applicant of one (1) of the following processes:
(1) Examination;
(2) Endorsement; or
(3) Reinstatement.

Section 2. Examination Candidate. (1) To be eligible for the examination, the applicant for licensure as a physical therapist shall:
(a) Have successfully completed the academic and clinical requirements of a physical therapy program accredited by CAPTE;
(b) Submit certification of completion by the educational administrator of that program;
(c) Have successfully completed the Jurisprudence Exam;
(d) Submit a complete Application for Credentialing that includes a photo taken within one (1) year;
(e) Submit the correct, nonrefundable fee as required in 201 KAR 22:135;
(f) Effective six (6) months after the board receives an Originating Agency Number from the Federal Bureau of Investigation, submit to the board a completed nationwide criminal background check, as required by KRS 327.310, with the background investigation completed no later than six (6) months prior to the date of the filing of the application;
(g) If applicable, submit on an Applicant Special Accommodations Request Form a request for a reasonable accommodation in testing due to a documented disability; and
(h)[~~(g)~~] Register for the NPTE examination.[~~; and~~
~~(h) Effective six (6) months after the board receives an Originating Agency Number from the Federal Bureau of Investigation, submit to the board a completed nationwide criminal background check as required by KRS 327.310 with the background investigation completed no later than six (6) months prior to the date of the filing of the application.~~]
(2) To be eligible for the examination, the applicant for certification as a physical therapist assistant shall:
(a) Have successfully completed the academic and clinical requirements of a physical therapy or physical therapist assistant program accredited by CAPTE; and
(b) Complete the requirements of subsection (1)(b) through (h) of this section.
(3) Effective July 1, 2012, after six (6) failed attempts at either the physical therapist or physical therapist assistant examination, or combination thereof, in any jurisdiction, an applicant shall not be eligible to register for any additional examinations.

Section 3. An applicant for credentialing who is registered for the examination in another jurisdiction shall:
(1) Meet the eligibility requirements of Section 2 of this administrative regulation; and
(2) Register with the FSBPT Score Transfer Service to have results submitted to Kentucky.

Section 4. To be eligible for a temporary permit, the candidate shall:
(1) Meet the qualifications of Section 2 or 3 of this administrative regulation, except for the retake provisions in Section 2(3) of this administrative regulation;
(2) Complete a Supervisory Agreement for Applicant with Temporary Permit with one (1) or more physical therapists; and
(3) Have not failed either the physical therapist or physical therapist assistant examination in any jurisdiction.

Section 5. (1) Upon issuance of a temporary permit, the physical therapist or physical therapist assistant applicant shall practice only under the supervision of a physical therapist currently engaged in the practice of physical therapy in Kentucky who:
(a) Has practiced in Kentucky for more than one (1) year; and
(b) Has an unrestricted license.
(2) A supervising physical therapist:
(a) Shall be on-site at all times during the practice of the applicant with a temporary permit;
(b) Shall be responsible for the practice of physical therapy by the applicant with a temporary permit;
(c) Shall review, approve, date, and co-sign all physical therapy documentation by the applicant with a temporary permit;
(d) May designate an alternate supervising physical therapist who meets the qualifications of subsection (1)(a) and (b) of this section. The alternate supervising physical therapist shall sign and date written documentation of the acceptance of the responsibility as identified in paragraph (a) through (c) of this subsection; and
(e) Shall notify the board immediately if the supervisory relationship is terminated.
(3) The applicant with a temporary permit shall:
(a) Disclose the applicant's temporary credential status to all patients prior to initiating treatment;
(b) Sign documentation with temporary permit number and designation as defined in 201 KAR 22:053, Section 5(5)(a) or (b); and
(c) Notify the board immediately if the supervisory relationship is terminated.
(4) The temporary permit shall expire the earlier of:
(a) Six (6) months from the date of issuance; or
(b) Notice of exam results by the board. ***A temporary permit holder who is registered for the examination in another jurisdiction shall register with the FSBPT Score Transfer Service to have results submitted to Kentucky within forty-eight (48) hours of the release of the exam results.***[~~A temporary permit holder who is registered for the examination in another jurisdiction shall register with the FSBPT Score Transfer Service to have results submitted to Kentucky within forty-eight (48) hours of the release of the exam results.~~]
Section 6. A physical therapist applicant who meets the qualifications for physical therapy licensure by examination may become a special candidate for physical therapist assistant certification by examination.

Section 7. To be eligible for credentialing by endorsement, the applicant shall:
(1) Have successfully completed the academic and clinical

requirements of a physical therapy or physical therapist assistant program accredited by CAPTE;

(2) Meet the requirements established in Section 2(1)(b) through (f)[~~(e)~~] of this administrative regulation;

(3) Have successfully completed the NPTE or its equivalent, predecessor examination and register with the FSBPT Score Transfer Service to have results submitted to Kentucky:

(a) A passing score in Kentucky for the person who took the NPTE prior to July 1, 1993, shall be at least equal to the national average raw score minus one and five-tenths (1.5) standard deviation set equal to a converted score of seventy-five (75); or

(b) After July 1, 1993, a passing score shall be the criterion referenced passing point recommended by the FSBPT set equal to a scaled score of 600;

(4) Have an active credential in this profession in another jurisdiction; and

(5) Have verification of credentials showing the credential has never been revoked, suspended, placed on probation, or is not under disciplinary review in another jurisdiction upon application.

Section 8. To be eligible for reinstatement, the applicant shall meet the requirements in 201 KAR 22:040.

Section 9. A credential issued by the board shall be in effect until March 31 of the next odd-numbered year.

Section 10. A foreign-educated physical therapist shall comply with the provisions of 201 KAR 22:070.

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

(a) "Application for Credentialing", December 2011;

(b) "Supervisory Agreement for Applicant with Temporary Permit", January 2017; and

(c) "Applicant Special Accommodations Request Form", December 2012.

(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: February 15, 2019

FILED WITH LRC: February 15, 2019 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.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, April 9, 2019)

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

RELATES TO: KRS 150.010, 150.177, 150.180, 150.411(3), 150.990, 237.110

STATUTORY AUTHORITY: KRS 150.025(1), 150.170, 150.175, 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 150.170 authorizes exemptions for certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits to be issued by the department. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. This administrative regulation establishes deer hunting seasons and zones, bag limits, legal methods of taking, and checking and recording requirements for deer hunting.

Section 1. Definitions.

(1) "Additional deer permit" means a permit that allows the holder to take up to two (2) additional deer beyond those allowed by the statewide ***deer*** permit in the following combinations:

(a) One (1) antlered deer and one (1) antlerless deer; or

(b) Two (2) antlerless deer.

(2) "Adult" means a person who is at least eighteen (18) years of age.

(3) "Air gun" means a pneumatic gun fired by a charge of compressed air.

(4) "Antlered deer" means a male or female deer, excluding male fawns, with a visible antler protruding above the hairline.

(5) "Antlerless deer" means a male or female deer with no visible antler protruding above the hairline.

(6) "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.

(7) "Arrow" means the projectile fired from a bow or crossbow.

(8) "Centerfire" means a type of gun that detonates a cartridge by the firing pin striking a primer in the middle of the end of the cartridge casing.

(9) "Crossbow" means a bow with a string designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(10) "Deer" means a member of the species Odocoileus virginianus.

(11) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(12) "License year" means the period from March 1 through the last day of February.

(13) "Modern gun" means an air gun, rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(14) "Muzzle-loading gun" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(15) "Novice deer hunter" means a person who has not harvested more than two (2) deer in Kentucky in the last ten (10) years.

(16) "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(17) "Special deer hunt" means a one (1) or two (2) day deer hunt sponsored and overseen by the department on private land that:

(a) Allows a novice deer hunter to use a modern gun outside of modern gun deer season; and

(b) Shall be made available only to a:

1. Kentucky resident;

2. Person enrolled as a resident or non-resident student in a public or non-public postsecondary institution located in Kentucky; or

3. Member of the United States military or his or her spouse or children stationed at a military base in Kentucky.

(18)[~~(17)~~] "Statewide deer hunting requirements" means the season dates, zone descriptions, bag limits, and other requirements for deer hunting established in this administrative regulation.

(19)[~~(18)~~] "Statewide deer permit" means a permit, which, in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

(20)[~~(19)~~] "Youth" means a person under the age of sixteen (16) by the date of the hunt.

(21)[~~(20)~~] "Youth deer permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

(22)[~~(21)~~] "Zone" means an area consisting of counties designated by the department within which deer hunting season dates and limits are set for the management and conservation of

deer in Kentucky.

Section 2. License and Deer Permit Requirements.

(1) Unless license exempt, as established in KRS 150.170, a person shall carry a valid:

(a)[~~proof of purchase of a valid~~] Kentucky hunting license while hunting; and

(b)[~~valid~~] Deer permit while hunting.

(2) Unless license exempt, as established in KRS 150.170, a youth shall carry a valid:

(a)[~~proof of purchase of A valid~~] Kentucky youth hunting license while hunting; and

(b)[~~A valid~~] Youth deer permit while hunting.

Section 3. Hunter Restrictions.

(1) A deer hunter shall not:

(a) Take a deer except during daylight hours;

(b) Use dogs, except leashed tracking dogs, to recover a wounded deer;

(c) Take a deer that is swimming;

(d) From a vehicle, boat, or on horseback, take a deer, except that a hunter with a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform; and

(e) Possess or use a decoy or call powered by electricity from any source.

(2) A person shall only use the equipment established in paragraphs (a) through (e) of this subsection to take a deer:

(a) A crossbow or archery equipment loaded with a 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; and

2. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzle-loading gun;

(d) A shotgun loaded with a shell containing single projectile ammunition designed to expand upon impact; or

(e) An air gun:

1. Of .35 caliber or larger;

2. Charged by an external tank; and

3. Loaded with single projectile ammunition designed to expand upon impact.

(3) A person shall only use a weapon that complies with the appropriate season established in Section 5 of this administrative regulation to take a deer.

(4) A crossbow shall contain a working safety device.

(5) A person shall not use a magazine capable of holding more than ten (10) rounds to take a deer.

Section 4. Hunter Orange Clothing Requirements.

(1) During the modern gun deer season, muzzle-loader season, and any youth gun season, a person hunting any species during daylight hours and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl or mourning dove.

(2) During an elk firearm season, as established in 301 KAR 2:132, a person hunting any species and any person accompanying a hunter within the elk restoration zone, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except while hunting waterfowl or mourning dove.

(3) 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.

(4) A camouflage-pattern hunter orange garment worn without additional solid hunter orange on the head, back, and chest shall not meet the requirements of this section.

Section 5. Statewide Season Dates.

(1) A deer hunter may use archery equipment to hunt deer statewide from the first Saturday in September through the third Monday in January.

(2) A deer hunter may take deer with a modern gun statewide beginning the second Saturday in November for sixteen (16) consecutive days.

(3) A deer hunter may use a muzzle-loading gun to hunt deer statewide:

(a) For two (2) consecutive days beginning the third Saturday in October;

(b) For nine (9) consecutive days beginning the second Saturday in December; and

(c) During any season in which a modern gun may be used to take deer.

(4) A deer hunter may use a crossbow to hunt deer statewide[~~:~~

~~(a)~~] from the third Saturday in September through the third Monday in January[~~October 1 through the end of the third full weekend in October;~~

~~(b) From the second Saturday in November through December 31; and~~

~~(c) During any season in which a gun may be used to take deer~~].

(5) A youth or a legal resident hunter sixty-five (65) years or older may hunt with a crossbow from the first Saturday in September through the third Monday in January.

(6) There shall be a youth gun season for two (2) consecutive days beginning on the second Saturday in October, in which a youth deer hunter shall comply with this administrative regulation and all other statewide deer hunting requirements.

(7) There shall be a free youth weekend for two (2) consecutive days beginning on the Saturday after Christmas during which a youth:

(a) Shall not be required to have a hunting license or deer permit; and

(b) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

Section 6. Zones.

(1) Zone 1 shall consist of Anderson, Ballard, Boone, Bracken, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Franklin, Fulton, Gallatin, Grant, Graves, Green, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, Mason, McClean, McCracken, Mercer, Muhlenberg, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Todd, Trigg, Trimble, Union, Washington, Webster, and Woodford Counties.

(2) Zone 2 shall consist of Adair, Allen, Barren, Bath, Bourbon, Boyd, Boyle, Breckinridge, Butler, Carter, Casey, Clark, Daviess, Edmonson, Fayette, Fleming, Grayson, Greenup, Hancock, Jessamine, Lawrence, Lewis, Lincoln, Logan, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Nicholas, Ohio, Taylor, and Warren Counties.

(3) Zone 3 shall consist of Cumberland, Elliott, Estill, Garrard, Johnson, Laurel, Morgan, Powell, Pulaski, Rowan, Simpson, Wayne, and Wolfe Counties.

(4) Zone 4 shall consist of Bell, Breathitt, Clay, Clinton, Floyd, Harlan, Jackson, Knott, Knox, Lee, Leslie, Letcher, Magoffin, Martin, McCreary, Menifee, Owsley, Perry, Pike, Rockcastle, Russell, and Whitley Counties.

Section 7. Season and Zone Limits.

(1) A person shall not take more deer than***[what]*** each zone allows, as established in this section.

(2) A person shall not take more than one (1) antlered deer per license year, regardless of permit type used or zone hunted, except as established in 301 KAR 2:111, 2:178, or 3:100.

(3) A person may take an unlimited number of antlerless deer in Zone 1 if the person has purchased the appropriate additional deer permits.

~~(3) A person shall not take more than one (1) antlered deer per license year, regardless of the permit type used, except as established in 301 KAR 2:111, 2:178, and 3:100.~~]

(4) A person may take up to a total of four (4) deer in Zone 2.

(5) In Zone 3, a person may take up to a total of four (4) deer, except that a firearm or air gun shall not be used to take a total of

more than one (1) antlerless deer.

(6) In Zone 4, a person may take one antlerless deer, but only during:

(a) Archery season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;

(b) Crossbow season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;

(c) Any youth weekend; or

(d) The last three (3) days of the December muzzleloader season.

Section 8. Supervision of Youth Gun Deer Hunters.

(1) An adult shall:

(a) Accompany a person under sixteen (16) years old; and

(b) Remain in a position to take immediate control of the youth's gun.

(2) An adult accompanying a youth hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.

Section 9. Harvest Recording.

(1) Immediately after taking a deer, and prior to moving the carcass, a person shall record, in writing:

(a) The species taken;

(b) The date taken;

(c) The county where taken; and

(d) The sex of the deer taken on one (1) of the following:

1. The hunter's log section on the reverse side of a license or permit;

2. The hunter's log produced in a hunting guide;

3. A hunter's log printed from the Internet;

4. A hunter's log available from any KDSS agent; or

5. An index or similar card.

(2) The person shall retain and possess the completed hunter's log while the person is in the field during the current hunting season.

Section 10. Checking a Deer.

(1) A person shall check a harvested deer before 11:59 p.m. on the day the deer is recovered by:

(a) Calling (800) 245-4263 and providing the requested information; or

(b) Completing the online check-in process at fw.ky.gov.

(2) A person who has checked in a deer shall record the confirmation number on a hunter's log.

(3) If a hunter removes the hide or head of a harvested deer before the deer is checked in, then the hunter shall retain the deer parts established in paragraphs (a) and (b) of this subsection:

(a) For antlered deer, the:

1. Head with antlers; or

2. Testicles, scrotum, or penis attached to the carcass; or

(b) For antlerless deer, the:

1. Head; or

2. Udder or vulva attached to the carcass.

(4) If a hunter transfers possession of a harvested deer, or if the harvested deer is out of the hunter's possession, the hunter shall attach to the carcass a hand-made tag that contains the following information:

(a) The confirmation number;

(b) The hunter's name; and

(c) The hunter's telephone number.

(5) A person shall not provide false information while:

(a) Completing the hunter's log;

(b) Checking a deer; or

(c) Creating a carcass tag.

Section 11. Transporting and Processing Deer.

(1) A person shall:

(a) Not transport an unchecked deer out of Kentucky;

(b) Have proof that a deer or parts of deer brought into Kentucky were legally taken; or

(c) Not sell deer hides except to a licensed:

1. Fur buyer;

2. Fur processor; or

3. Taxidermist.

(2) A taxidermist or an individual who commercially butchers deer shall not accept a deer carcass or any part of a deer without a valid disposal permit issued by the department pursuant to KRS 150.411(3) or a proper carcass tag as established in Section 10 of this administrative regulation.

(3) An individual who commercially butchers deer shall keep accurate records of the hunter's name, address, confirmation number, and date received for each deer in possession and retain the records for a period of one (1) year.

Section 12. Special Deer Hunt Program.

(1) A special deer hunt shall:

(a) Consist of a minimum of ten (10) novice deer hunters selected on a first-come, first-served basis;

(b) Take place on private land with the permission of the landowner;

(c) Only be overseen and sponsored by department employees; and

(d) Take place during the archery deer season.

(2) A special deer hunt participant shall possess a valid hunting license and deer permit, except if the participant is license-exempt, as established in KRS 150.170.

Section 13. Antlers[~~Antler Traps~~]. (1) A person shall not use a device that is designed to entangle or trap the antlers of a deer.

(2) A shed of a deer shall be legal to possess.

FRANK JEMLEY III, Acting Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: January 7, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, April 9, 2019)

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

RELATES TO: KRS 150.010, 150.170, 150.340, 150.370(1), 150.990

STATUTORY AUTHORITY: 148.029(5), 150.025(1), 150.390(1), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.029(5) authorizes the Department of Parks, in cooperation with the Department of Fish and Wildlife Resources, to implement wildlife management plans on state parks. 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 to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. KRS 150.620 authorizes the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation. This administrative regulation establishes deer hunting seasons, application procedures, and other matters pertaining to deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas that differ from statewide requirements.

Section 1. Definitions. (1) "Adult" means a person who is at

least eighteen (18) years of age.

(2) "Bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that may lure, entice, or attract wildlife.

(3) "Centerfire" means a type of gun that detonates a cartridge by the firing pin striking a primer in the middle of the end of the cartridge casing.

(4) "Ground blind" means a structure consisting of a frame and a top that is placed on the ground to completely enclose a hunter while hunting deer.

(5) "In-line muzzleloader" means a gun:

(a) Capable of being loaded only from the discharging end of the barrel or cylinder; and

(b) That is equipped with an enclosed ignition system located directly behind the powder charge.

(6) "Mentor hunt" means a quota youth hunt in which the adult who accompanies a youth may legally take a deer.

(7) "Mobility-impaired" means an individual who meets the requirements of 301 KAR 3:026, Section 2(1).

(8) "Modern gun" means an air gun, rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(9) "Modern gun season" means the[~~ten (10) or~~] sixteen (16) consecutive day period beginning the second Saturday in November during which a modern gun may be used to take deer pursuant to 301 KAR 2:172.

(10) "Muzzleloader" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(11) "Quota hunt" means a hunt in which a participant is selected by a random drawing.

(12) "Quota youth hunt" means a quota hunt in which a youth is the only person who can legally take a deer.

(13) "Statewide requirements" mean the season dates, zone descriptions, and other requirements for deer hunting as established in 301 KAR 2:172.

(14) "Wildlife management area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

(15) "Youth" means a person under the age of sixteen (16) by the date of the hunt.

(16) "Youth gun seasons" means the October youth gun season and the December free youth weekend, as established in 301 KAR 2:172.

Section 2. General WMA Requirements. (1) Unless established in this administrative regulation, statewide requirements shall apply.

(2) Except as established in Section 6 of this administrative regulation, if a WMA is in two (2) or more deer hunting zones, as established in 301 KAR 2:172, then the WMA shall be regulated by the most liberal zone requirements of the zones in which it lies.

(3) Deer hunting on WMAs listed in Section 6 of this administrative regulation shall be permitted only as established in this administrative regulation, except archery and crossbow hunting shall be allowed pursuant to the statewide requirements established in 301 KAR 2:172, unless otherwise noted.

(4) If a WMA is:

(a) Listed in Section 6 of this administrative regulation, then gun hunting shall be prohibited, unless otherwise noted; and

(b) Not listed in Section 6 of this administrative regulation, then statewide deer hunting requirements shall apply.

(5) An antlerless deer shall not count against a person's statewide or zone bag limit if harvested during:

(a) The Grayson Lake WMA open youth hunt; or

(b) Any WMA or state park either-sex quota hunt.

(6) An open gun deer hunt, beginning on the Wednesday following the third Monday in January for ten (10) consecutive days, shall:

(a) Be limited to members of the United States Armed Forces and the National Guard and reserve component who:

1. Are residents of Kentucky or nonresidents stationed in Kentucky; and

2. Were deployed out-of-country during any portion of the most recent regular statewide deer season;

(b) Only be on a WMA designated as open for this special hunt; and

(c) Be pursuant to statewide requirements established in 301 KAR 2:172.

(7) On all WMAs and Otter Creek Outdoor Recreation Area, a person:

(a) Attaching a tree stand or climbing a tree shall not use a:

1. Nail;

2. Spike;

3. Screw-in device;

4. Wire; or

5. Tree climber;

(b) May use a portable stand or climbing device;

(c) Shall:

1. Not place a portable stand in a tree more than two (2) weeks before opening day; and

2. Remove a portable stand within one (1) week following the last day of each hunting period;

(d) Shall plainly mark the portable stand with the hunter's name and address;

(e) Shall not use an existing permanent tree stand;

(f) Shall not place, distribute, or hunt over bait; and

(g) Shall not hunt in a ground blind, if gun deer hunting is allowed, without first attaching a hat or vest made of solid, unbroken hunter orange material to the blind so that it is visible from all sides.

(8) A person without a valid quota hunt confirmation number shall not enter a WMA during a quota hunt on that area except:

(a) To travel through a WMA on an established road or to use an area designated open by a sign;

(b) To accompany a youth who is hunting in a youth or mentor quota hunt;

(c) That one (1) assistant, who shall not be required to have applied for the quota hunt, may accompany a hunter who was drawn to hunt, but shall check in and out as established in Section 5 of this administrative regulation; or

(d) To participate in small game hunting or the October shotgun segment of the fall turkey season during the archery and crossbow quota hunt on Big Rivers <u>or Higginson-Henry</u> WMA.

(9) Except for waterfowl or dove hunting, or legal hunting at night, a person who is hunting any species, or a person who is accompanying a hunter, shall wear hunter orange clothing pursuant to 301 KAR 2:172 while:

(a) On a WMA or state park if gun deer hunting is allowed;

(b) Hunting within the sixteen (16) county elk zone when a firearms elk season is open, pursuant to 301 KAR 2:132; or

(c) Hunting within the bear zone during a bear firearms season, pursuant to 301 KAR 2:300.

Section 3. General Quota Hunt Procedures. (1) A quota hunt applicant who is not selected and applies to hunt the following year shall be given one (1) preference point for each year the applicant was not selected.

(2) If selected for a quota hunt, a person shall lose all accumulated preference points.

(3) A random selection of hunters with preference points shall be made for each year's quota hunts before those without preference points are chosen.

(4) A person shall forfeit all accumulated preference points if, in a given year, the person does not apply for or is ineligible to apply for:

(a) A deer quota hunt; and

(b) The no-hunt option.

(5) A person who applies for the no-hunt option shall:

(a) Not be drawn for a quota hunt; and

(b) Be given one (1) preference point for each year the no-hunt option is selected.

(6) If applying as a party:

(a) Each applicant's preference points shall be used to

calculate an average point total for the party; and

(b) A party with a higher preference point average will be randomly selected before a party with a lower preference point average.

(7) There shall be a maximum of ten (10) percent of nonresidents drawn in each quota hunt pool.

(8) The commissioner shall extend the application deadline if technical difficulties with the automated application system prevent applications from being accepted for one (1) or more days during the application period.

(9) A hunter may take up to two (2) deer on a quota hunt in Zones 2, 3, and 4, only one (1) of which may be an antlered deer, except as established in Section 6 of this administrative regulation.

(10) If a hunter has purchased the appropriate permits, a hunter may take unlimited antlerless deer in:

(a) The West Kentucky WMA gun hunt;

(b) WMA quota hunts in Zone 1; and

(c) State Park quota hunts in Zone 1, except as established in Section 8 of this administrative regulation.

(11) One (1) person shall be drawn from the eligible quota hunt applicants who were not selected in the original drawing, and shall receive one (1) deer permit that carries with it all the privileges of the Special Commission Permit established in 301 KAR 3:100.

Section 4. Quota Hunt Application Process. A person applying for a quota hunt shall:

(1) Complete the quota hunt application process on the department's Web site at fw.ky.gov between September 1 and September 30;

(2) Select:

(a) A first and second choice of hunts; or

(b) The no-hunt option;

(3) Pay a nonrefundable three (3) dollar application fee for each applicant;

(4) Not apply more than one (1) time; and

(5) Not apply as a group of more than five (5) persons.

Section 5. Quota Hunt Participant Requirements. Except as otherwise established in this administrative regulation, a person selected to participate in a quota hunt shall:

(1) Possess, unless exempted pursuant to KRS 150.170:

(a) A valid annual Kentucky hunting license; and

(b) A deer permit that authorizes the taking of deer with the equipment being used and in accordance with the zone restrictions where the hunt will occur;

(2) Hunt on the assigned dates and in assigned areas selected by a random drawing of applicants if applicable;

(3) Comply with hunting equipment restrictions specified by the type of hunt;

(4) Check in at the designated check station prior to hunting:

(a) Either:

1. On the day before the hunt, between noon and 8 p.m. local time; or

2. On the day of the hunt, between 5:30 a.m. and 8 p.m. Eastern time; and

(b) With documentation of the participant's:

1. Proof of identification or draw confirmation number; and

2. Purchase of a current license or permit which allows or includes statewide deer hunting privileges;

(5) Check out at the designated check station:

(a) If finished hunting;

(b) If the hunter's bag limit is reached; or

(c) By 8 p.m. Eastern time on the final day of the hunt;

(6) Take a harvested deer to the designated check station by 8 p.m. Eastern time the day the deer was harvested;

(7) Be declared ineligible to apply for the next year's drawing if the hunter or the hunter's assistant fails to check out properly;[~~and~~]

(8) Telecheck a harvested deer or check a harvested deer on the department's Web site at fw.ky.gov if there is not a designated check station at the quota hunt; and

(9) Comply with all species quota hunt requirements or be ineligible to apply for any quota hunt or no-hunt option for these species the following year.

Section 6. Wildlife Management Area Requirements. (1) Dr. Norman and Martha Adair WMA.

(2) Ballard WMA.

(a) On the main tract, the quota hunt shall be for two (2) consecutive days beginning on the first Saturday in November.

(b) On the main tract, the archery, crossbow, and October youth gun seasons shall be open pursuant to statewide requirements through October 14, except that the two (2) mile driving loop marked by signs shall be closed to all hunting.

(c) The archery, crossbow, modern gun, youth gun, and muzzleloader seasons shall be open pursuant to statewide requirements only on the 400-acre tract south of Sallie Crice Road.

(d) A quota hunt participant shall be given one (1) preference point for each female deer checked in, up to a maximum of four (4) points.

(3) Barren River WMA. The area shall be open pursuant to statewide requirements except that on the Peninsula Unit, including Narrows, Goose, and Grass Islands, a person shall not hunt deer with a modern gun.

(4) Beaver Creek WMA.

(a) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(b) The limit shall be one (1) antlered deer during the quota hunt.

(c) The youth gun seasons shall be open pursuant to statewide requirements.

(5) Big Rivers WMA.

(a) The youth gun seasons shall be open pursuant to statewide requirements.

(b) There shall be a quota hunt for two (2) consecutive days beginning the first Saturday in November.

(c) The archery and crossbow quota hunt shall begin the Monday following the third[~~second~~] Saturday in October and continue through November 30, except that it shall be closed during the two (2) day quota hunt as established in paragraph (b) of this subsection.

(d) A person shall:

1. Obtain a vehicle tag from the department prior to participating in the quota hunt as established in paragraph (c) of this subsection; and

2. Display the vehicle tag in the windshield of the vehicle while hunting[~~Pursuant to 301 KAR 2:172, any deer taken in the quota hunt as established in paragraph (c) of this subsection shall be:~~

~~1. Telechecked; or~~

~~2. Checked in on the department's Web site at fw.ky.gov~~].

(6) Boatwright WMA. The area shall be open pursuant to statewide requirements, except that on the Swan Lake Unit the:

(a) Archery, October youth gun, and crossbow seasons shall only be open through October 14; and

(b) December free youth weekend shall be closed.

(7) Cedar Creek Lake WMA.

(8) Clay WMA.

(a) On the main tract, muzzleloader and youth gun seasons shall be open pursuant to statewide requirements, except archery hunting shall be prohibited during the quota fox hunting field trials as established in 301 KAR 2:049.

(b) The remainder of the WMA shall be open pursuant to statewide requirements for the archery, crossbow, muzzleloader, and youth gun seasons, except during the quota deer hunt.

(c) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(d) A quota hunt participant shall be given one (1) preference point for each female deer checked-in, up to a maximum of four (4) points.

(e) Hunters drawn for the quota hunt may harvest up to four (4) deer, only one (1) of which may be antlered.

(9) Dewey Lake WMA.

(a) The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(b) Guns shall be prohibited for deer hunting on the:

1. Western side of the lake, north of the Terry Boat Ramp; and

2. Eastern side of the lake, north of the ridge that begins

across the lake from the Terry Boat Ramp, and extends eastward to the WMA boundary.

(c) There shall be a quota hunt for two (2) consecutive days beginning the first Saturday in November.

(d) There shall be a one (1) deer limit during the quota hunt.

(10) Dix River WMA. The youth gun and muzzleloader seasons shall be open pursuant to statewide requirements.

(11) Fishtrap Lake WMA.

(a) The quota hunt shall be for two (2) consecutive days beginning on the Saturday before Thanksgiving.

(b) The limit for the quota hunt shall be one (1) deer.

(c) The youth gun and December muzzleloader seasons shall be open pursuant to statewide requirements.

(12) Grayson Lake WMA.

(a) An open youth hunt shall:

1. Be the first Saturday in November for two (2) consecutive days; and

2. Have a two (2) deer bag limit, only one (1) of which may be an antlered deer.

(b) A person who has not checked in shall not enter the Grayson Lake WMA during the open youth hunt, except to:

1. Travel through the WMA on an established public road; or

2. Use an area designated as open by signs.

(c) The property of Camp Webb shall be open for a mobility-impaired deer hunting event during the first weekend of October.

(d) The crossbow season shall be from the first Saturday in September through the third Monday in January, except that the archery and crossbow seasons shall be closed during the November open youth hunt.

(e) The youth gun seasons shall be open pursuant to statewide requirements.

(f) The December muzzleloader season shall be open pursuant to statewide requirements.

(13) Green River Lake WMA and Dennis-Gray WMA.

(a) The youth gun seasons shall be open pursuant to statewide requirements.

(b) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(c) Fifteen (15) openings shall be reserved in the quota hunt for mobility-impaired persons.

(d) The Green River Lake and Dennis-Gray WMAs shall be considered to be located in the Eastern Time Zone.

(14) Griffith Woods WMA. The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(15) Higginson-Henry WMA.

(a) The youth gun seasons shall be open pursuant to statewide requirements.

(b) There shall be a quota hunt for two (2) consecutive days beginning the first Saturday in November.

(c) There shall be an archery and crossbow quota hunt beginning the Monday following the third Saturday in October continuing through November 30, except that it shall be closed during the two (2) day quota hunt as established in paragraph (b) of this subsection.

(d) A person shall:

1. Obtain a vehicle tag from the department prior to participating in the quota hunt as established in paragraph (c) of this subsection; and

2. Display the vehicle tag in the windshield of the vehicle while hunting.

(16) J.C. Williams WMA. The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(17) Kentucky River WMA.

(a) The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(b) There shall be a quota hunt for two (2) consecutive days beginning on the first Saturday in November.

(18) Kleber WMA.

(a) The quota hunts shall be for:

1. Two (2) consecutive days beginning the first Saturday in November; and

2. Two (2) consecutive days beginning the first Saturday in December.

(b) The youth gun and December muzzleloader seasons shall be open pursuant to statewide requirements.

(19) Knobs State Forest WMA. The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(20) Lake Barkley WMA shall be open pursuant to statewide requirements except:

(a) The North Refuge shall be closed from November 1 to February 15; and

(b) Duck Island shall be closed from October 15 to March 15, except that it shall be open for the October muzzleloader season, pursuant to statewide requirements.

(21) Livingston County WMA. The youth gun, muzzleloader, and modern gun seasons shall be open pursuant to statewide requirements, except a person shall not hunt deer with a modern gun during the modern gun deer season.

(22) Curtis Gates Lloyd WMA. The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(23) Mill Creek WMA.

(a) The youth gun seasons shall be open pursuant to statewide requirements.

(b) The modern gun season shall be open pursuant to statewide requirements for two (2) consecutive days beginning the second Saturday in November.

(24) Miller-Welch Central Kentucky WMA. The archery and crossbow seasons shall be open pursuant to statewide requirements:

(a) On Monday through Thursday, from the first Saturday in September through December 17, except during scheduled field trials as posted on the area bulletin board; and

(b) December 18 through the third Monday in January.

(25) Mud Camp Creek WMA. The youth gun and muzzleloader seasons shall be open pursuant to statewide requirements.

(26) Mullins WMA. The youth gun and December muzzleloader seasons shall be open pursuant to statewide requirements.

(27) Ohio River Islands WMA, Stewart Island Unit.

(a) The muzzleloader season shall be for two (2) consecutive days beginning the third Saturday in October.

(b) The archery season shall be from the first Saturday in September through October 14.

(c) The crossbow season shall be from October 1 through October 14.

(d) The October youth gun season shall be open pursuant to statewide requirements.

(e) The remainder of the WMA shall be open pursuant to statewide requirements.

(28) Paintsville Lake WMA.

(a) The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(b) The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(c) A person shall not use a gun for deer hunting on:

1. The area extending eastward from the drainage of Glade Branch, along the north edge of the lake, to the No Hunting Area surrounding Rocky Knob Recreation Area and enclosing all property from the WMA boundary downslope to the lake edge; and

2. The islands to the south and that portion of the area extending eastward along the south edge of the lake from the drainage of Shoal Branch to the No Hunting Area surrounding the dam and ranger station, and extending downslope to the edge of the lake.

(29) Peabody WMA.

(a) The youth gun and muzzleloader seasons shall be open pursuant to statewide requirements.

(b) The modern gun season shall be open pursuant to statewide requirements for ten (10) consecutive days beginning the second Saturday in November.

(30) Pennyrile State Forest-Tradewater WMA. The quota hunt shall be for two (2) consecutive days beginning the first Saturday in November.

(31) Ping-Sinking Valley WMA. The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(32) Pioneer Weapons WMA. Statewide requirements shall apply except that a person:

(a) Shall not use a modern gun;

(b) Shall not use an in-line muzzleloader;

(c) Shall not use a scope;

(d) May use a crossbow during the entire archery season; and

(e) Shall use only open or iron sights on any weapon.

(33) Redbird WMA.

(a) The youth gun seasons shall be open pursuant to statewide requirements.

(b) The modern gun season shall be open pursuant to statewide requirements for two (2) consecutive days beginning the second Saturday in November.

(34) Dr. James R. Rich WMA.

(a) There shall be a quota hunt for two (2) consecutive days beginning on the first Saturday in:

1. November; and

2. December; and

(b) The youth gun and December muzzleloader seasons shall be open pursuant to statewide requirements.

(35) Robinson Forest WMA.

(a) A person shall not hunt deer on the main block of Robinson Forest.

(b) The remainder of the WMA shall be open pursuant to statewide requirements.

(36) Rockcastle River WMA.

(a) The youth gun seasons shall be open pursuant to statewide requirements.

(b) The modern gun season shall be open pursuant to statewide requirements for two (2) consecutive days beginning the second Saturday in November.

(37) Sloughs WMA.

(a) On the Sauerheber Unit, the archery, crossbow, muzzleloader, and youth gun seasons shall be open pursuant to statewide requirements through October 31[~~, except that the Crenshaw and Duncan II Tracts shall be open pursuant to statewide requirements through the end of modern gun season~~].

(b) The remainder of the WMA shall be open pursuant to statewide requirements.

(38) South Shore WMA.

(a) The youth gun, October muzzleloader, and modern gun seasons shall be open pursuant to statewide requirements through November 14, except that the use of centerfire rifles and handguns shall be prohibited.

(b) The archery and crossbow seasons shall be open pursuant to statewide requirements, except that the area shall be closed November 15 through January 15.

(c) The December free youth weekend and December muzzleloader season shall be closed.

(39) T.N. Sullivan WMA. The youth gun and December muzzleloader seasons shall be open pursuant to statewide requirements.

(40) R.F. Tarter WMA. The youth gun and muzzleloader seasons shall be open pursuant to statewide requirements.

(41) Taylorsville Lake WMA.

(a) There shall be a quota hunt for two (2) consecutive days beginning the first Saturday in:

1. November; and

2. December.

(b) Seven (7) openings shall be reserved in each quota hunt for mobility-impaired persons.

(c) A quota hunt participant shall be given one (1) preference point for each female deer checked in, up to a maximum of four (4) points.

(d) The youth gun and December muzzleloader seasons shall be open pursuant to statewide requirements.

(42) Twin Eagle WMA. The youth gun and December muzzleloader seasons shall be open pursuant to statewide requirements.

(43) Paul Van Booven WMA.

(44) Veteran's Memorial WMA.

(a) The December muzzleloader and youth gun seasons shall be open pursuant to statewide requirements.

(b) There shall be a quota hunt for two (2) consecutive days beginning the first Saturday in:

1. November; and

2. December for antlerless deer.

(c) A participant in the December antlerless-only quota hunt shall be given one (1) preference point for each female deer checked in, up to a maximum of four (4) points.

(45) West Kentucky WMA.

(a) All tracts shall be open pursuant to statewide requirements for the archery and crossbow seasons, except that the statewide archery and crossbow seasons shall be closed during department administered quota, mentor, and gun deer hunts.

(b) Tracts 1-6 shall be open to shotgun and muzzleloader hunters participating in the quota and open gun deer hunts.

(c) Tract 7 and "A" tracts shall not be open for department administered quota or gun deer hunts, except as established in paragraph (d) of this subsection.

(d) The "A" tracts shall be open to shotgun hunters participating in the mentor hunt.

(e) The quota hunt shall be for four (4) consecutive days beginning the[~~third~~] Saturday prior to Thanksgiving[~~in December~~].

(f) There shall be a mentor hunt for four (4) consecutive days beginning the[~~third~~] Saturday prior to Thanksgiving[~~in December~~] in which:

1. There shall be no more than two (2) youths per adult;

2. There shall be no more than one (1) adult per youth; and

3. The adult may take a deer.

(g) The gun hunt shall:

1. Be for three (3) consecutive days beginning the Saturday preceding the third Monday in January;

2. Require a hunter to check-in at a designated check station from 4 p.m. to 8 p.m. Central time on the day before the hunt or between 4:30 a.m. and 7 p.m. Central time on hunt days;

3. Require a hunter to check out at the designated check station:

a. When finished hunting; or

b. By 7 p.m. Central time on the final day of the hunt;

4. Have an unlimited bag limit, only one (1) of which may be an antlered deer; and

5. Require every person to check in during the gun hunt, except for:

a. A person traveling on an established public road; or

b. A person in an area designated as open by signs.

(h) Gun hunters shall not use centerfire rifles or handguns.

(i) All persons shall check in daily at the designated check-in locations before entering the "A" tracts.

(j) A participant in the quota hunt, mentor hunt, or open gun hunt shall:

1. Sign in for the hunting tract of his or her choice at check-in prior to each day's hunt; and

2. Not hunt outside of that tract, except after noon.

(46) Yatesville WMA.

(a) The youth gun and muzzleloader seasons shall be open pursuant to statewide requirements.

(b) The modern gun season shall be open pursuant to statewide requirements for ten (10) consecutive days beginning the second Saturday in November.

(47) Yellowbank WMA. The December muzzleloader and youth gun deer seasons shall be open pursuant to statewide requirements.

Section 7. State Park Deer Seasons. (1) A state park may allow archery and crossbow hunting from the first Saturday in September through the third Monday in January for antlered or antlerless deer.

(2) A state park may allow up to sixteen (16) days of modern gun hunting and up to eleven (11) days of muzzleloader hunting from the first Saturday in September through the third Monday in January for antlered or antlerless deer.

(3) A state park shall be open to deer hunting as established in

this subsection and Section 8 of this administrative regulation.

(a)[~~Lake Barkley State Resort Park. Deer hunting shall be allowed beginning on the second Tuesday of January for two (2) consecutive days.~~

~~(b)~~] Greenbo Lake State Resort Park. Archery and crossbow deer hunting shall be allowed beginning on the:

1. First Friday of November for three (3) consecutive days;

2. Second Friday of November for three (3) consecutive days; and

3. Deer hunting shall be allowed beginning on the first[~~Second~~] Tuesday of January for two (2) consecutive days.

(b)[~~(c)~~] Green River Lake State Park.

1. Archery and crossbow deer hunting shall be allowed beginning on the second[~~first~~] Thursday of December for four (4) consecutive days.

2. Archery and crossbow deer hunting shall be allowed beginning on the third[~~second~~] Thursday of December for four (4) consecutive days.

(c)[~~(d)~~] Dale Hollow Lake State Resort Park.

1. Archery and crossbow deer hunting shall be allowed beginning on the first Monday of November for five (5) consecutive days.

2. Youth deer hunting shall be allowed beginning on the second Saturday of December for two (2) consecutive days.

3.[~~2.~~] Deer hunting shall be allowed beginning on the first Saturday of January for two (2) consecutive days.

(d)[~~(e)~~] Kenlake State Resort Park.

1. Archery and crossbow deer hunting shall be allowed beginning on the second Thursday of November for four (4) consecutive days.

2. Archery and crossbow deer hunting shall be allowed beginning on the first Saturday in January for two (2) consecutive days.

(e)[~~(f)~~] Kincaid Lake State Park.

1. Deer[~~Archery and crossbow~~] hunting shall be allowed beginning on the first[~~second~~] Thursday of December for four (4) consecutive days.

2.[~~Archery and crossbow~~] Deer hunting shall be allowed beginning on the second[~~third~~] Thursday of December for four (4) consecutive days.

(f)[~~(g)~~] Yatesville Lake State Park. Muzzleloader, archery, and crossbow deer hunting shall be allowed pursuant to statewide requirements on the [~~second~~] Monday following the second Saturday of December for three (3) consecutive days.

(g)[~~(h)~~] Jenny Wiley State Resort Park.

1. Deer hunting shall be allowed beginning on the first Saturday of January for two (2) consecutive days.

2. The bag limit shall be two (2) deer, only one (1) of which may be antlered.

3. The hunt shall be open to the first fifteen (15) mobility-impaired persons who check in at the park on the day before the hunt.

4. A person who participates in the hunt shall comply with the requirements established in 301 KAR 3:026.

Section 8. State Park Deer Hunt Requirements. (1) A person shall not hunt on a state park unless:

(a) Selected by a random drawing as established in Section 3 of this administrative regulation;

(b) The person is a member of a successful applicant's quota hunt party;

(c) The person is participating in a deer hunt established in Section 7 of this administrative regulation; or

(d) The person successfully registers on a first-come, first-served basis as part of a process administered by the Department of Parks, at an area established in subparagraphs 1. through 6.[~~5.~~] of this paragraph:

1. Blue Licks Battlefield State Resort Park;

2. Carter Caves State Resort Park;

3. John James Audubon State Park;

4. Lake Barkley State Resort Park;

5. My Old Kentucky Home State Park; and

6.[~~5.~~] Taylorsville Lake State Park.

(2) A person participating in a state park quota hunt, except for the quota hunts at Green River Lake State Park and the Yatesville Lake State Park open deer hunt, shall:

(a) Check in and check out as required in Section 5 of this administrative regulation;

(b) Furnish at check-in a driver's license or other form of government-issued identification;

(c) Check in:

1. Between noon and 8 p.m. Eastern time the day before the hunt at the state park campground if hunting in the Yatesville Lake State Park open deer hunt; or

2. At the park the day before the hunt if hunting in the Jenny Wiley State Resort Park deer hunt; and

(d) Not be eligible to apply for a quota hunt the following year if the person does not check out as required in Section 5 of this administrative regulation.

(3) A person participating in a state park deer hunt shall:

(a) Comply with the requirements established in 301 KAR 2:172; and

(b) Check a harvested deer by completing the telecheck or online check-in process as established in 301 KAR 2:172.

(4) A person participating in a state park deer hunt shall not:

(a) Take more than one (1) antlered deer;

(b) Hunt over bait;

(c) Use:

1. A tree stand except a portable stand;

2. Climbing devices that nail or screw to the tree; or

3. Climbing spikes;

(d) Leave a deer stand unattended for more than twenty-four (24) hours;

(e) Discharge a gun within 100 yards of a maintained road or building; or

(f) Hunt:

1. In an area posted as closed by signs;

2. Outside park boundaries; or

3. From a ground blind, if gun deer hunting is allowed, unless first attaching a hat or vest made of solid, unbroken hunter orange material to the blind so that it is visible from all sides.

(5) A person participating in a state park deer hunt, other than the open hunts at Jenny Wiley State Resort Park and Yatesville Lake State Park and any department-administered state park quota hunt, may take up to two (2) bonus deer per hunt that shall not count toward the statewide limit if the person:

(a) Takes no more than one (1) bonus antlered deer per license year; and

(b) Obtains the valid bonus deer tag from the state park hunt administrators.

(6) A person participating in a state park deer hunt or in possession of harvested wildlife on state park property shall comply with all posted state park rules and regulations concerning the possession, storage, or disposal of harvested wildlife.

Section 9. Other Public Lands. (1) On Daniel Boone National Forest, Jefferson National Forest, and Land Between the Lakes, a person shall not use bait.

(2) The areas established in paragraphs (a) through (g) of this subsection may schedule a gun, crossbow, or archery deer hunting season between September 1 and January 31:

(a) Big South Fork National River and Recreation Area;

(b) Clark's River National Wildlife Refuge;

(c) Daniel Boone National Forest;

(d) Jefferson National Forest;

(e) Land Between the Lakes National Recreation Area;

(f) Ohio River Islands National Wildlife Refuge; and

(g) Reelfoot National Wildlife Refuge.

(3) An area listed in subsection (2) of this section may issue a bonus permit for antlered or antlerless deer, which shall:

(a) Not count against a hunter's statewide bag limit; and

(b) Only be issued for a hunt that is open to the general public.

(4) At Land Between the Lakes, a person:

(a) Shall not take more than:

1. Two (2) deer during archery hunts; and

2. One (1) deer during quota hunts;

(b) Who is a quota deer hunter shall:

1. Apply in advance at Land Between the Lakes; and

2. Only hunt from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset; and

(c) Who harvests a deer shall:

1. Check in the carcass pursuant to U.S. Forest Service requirements; and

2. Affix a game check card pursuant to U.S. Forest Service requirements.

(5) At Reelfoot National Wildlife Refuge:

(a) On the Long Point Unit, a valid hunting license and deer permit from either Kentucky or Tennessee shall be required for deer hunting.

(b) Zone 1 bag limits shall apply during the open archery season and quota youth hunt;

(c)[~~(b)~~] A person shall not take more than two (2) deer by gun during the quota hunt***[hunt]***, only one (1) of which shall be antlered;

(d)[~~(c)~~] A quota gun hunt participant shall:

1. Tag deer as instructed[~~with a tag issued~~] by the Refuge; and

2. Comply with the Refuge check-in requirements; and

(e)[~~(d)~~] A person who is archery hunting or in a quota youth hunt shall:

1. Only take deer using the appropriate statewide or additional deer permit; and

2. Check harvested deer through the department's telephone or online check-in systems.

(6) At Otter Creek Outdoor Recreation Area:

(a) The archery and crossbow seasons shall be open pursuant to statewide requirements; and

(b) There shall be a quota hunt for two (2) consecutive days beginning the second Saturday in December.

(7) At Twin Knobs Campground, the area shall be closed to all statewide seasons, except that there shall be a quota hunt on the second Saturday in December during odd-numbered years for mobility-impaired persons.

(8) At Zilpo Campground, the area shall be closed to all statewide seasons, except that there shall be a quota hunt on the second Saturday in December during even-numbered years for mobility-impaired persons.

Section 10. Special Areas under Federal Control. (1) The areas established in paragraphs (a) through (e) of this subsection may schedule a gun, archery, or crossbow deer hunting season between September 1 and January 31:

(a) Bluegrass Army Depot;

(b) Fort Campbell;

(c) Fort Knox;

(d) Hidden Valley Training Center; and

(e) Wendell Ford Regional Training Center.

(2) An area listed in subsection (1) of this section may issue a bonus permit for antlered or antlerless deer, which shall:

(a) Not count against a hunter's statewide bag limit; and

(b) Only be issued for a hunt that is open to the general public.

(3) Except on the Hidden Valley Training area, on the areas listed in subsection (1) of this section, a deer hunter shall:

(a) Obtain a permit from the area before hunting;

(b) Only hunt on assigned dates;

(c) Remain in assigned areas;

(d) Tag deer with tags issued on the area, unless otherwise established in this section;

(e) Keep the area tag attached to the deer until the carcass is processed; and

(f) Check deer at a designated check station before leaving the area.

(4) At Bluegrass Army Depot, a person shall not take an antlered deer whose outside antler spread is less than fifteen (15) inches.

(5) At Fort Knox, a person shall:

(a) Not take an antlered deer whose outside antler spread is less than twelve (12) inches;

(b) Not use bait; and

(c) Record harvested deer on a Fort Knox harvest log and check harvested deer pursuant to area requirements and as established in 301 KAR 2:172.

(6) At Hidden Valley Training Area, a person shall not use a gun to hunt deer.

RICH STORM, Commissioner
DON PARKINSON, Secretary

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CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS, April 9, 2019)

702 KAR 1:160. School health services.

RELATES TO: KRS 156.160(1)(h), (i), (j), 156.501, 156.502, 158.035, 158.160, 158.838, 161.145, 214.034, 214.036, 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 156.070, 156.160(1), 158.838

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky Board of Education to manage and control all the common schools and all programs operated in these schools. KRS 156.160(1)(h) requires the board to promulgate administrative regulations governing medical inspection, physical and health education and recreation, and other administrative regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. KRS 156.160(1)(i) and (j) require the board to promulgate administrative regulations governing a required vision examination and a dental screening or examination. This administrative regulation establishes criteria for preventive student health care examinations at the local school district level.

Section 1. School Employee Medical Examinations. (1) Except as provided in subsection (2) of this section, a local board of education shall require a medical examination of each certified or classified employee, including each substitute teacher. The medical examination shall:

(a) Be conducted prior to initial employment; and

(b) Include a tuberculosis (TB) risk assessment.

1. If the individual is identified by that assessment as being at high risk for TB, the individual shall be required to undergo the administration of a tuberculin skin test (TST) or a blood test for Mycobacterium tuberculosis (BAMT).

2. The TB risk assessment shall be performed and reported by a physician, an advanced practice registered nurse, a physician's assistant, or a registered nurse.

(2) The medical examination requirement shall not apply to school bus drivers who are covered by 702 KAR 5:080.

(3) A local board of education may require by policy that a school employee physical examination be conducted no earlier than a ninety (90) day period prior to initial employment.

(4) A medical examination shall be reported on the form Medical Examination of School Employees, KDESHS001, or an electronic medical record that includes all of the data equivalent to that on the Medical Examination of School Employees form.

(5) A person who tests positive for TB shall be required to comply with the directives of the local board of health and the Kentucky Department for Public Health for further evaluation and treatment of the TB infection.

(6)(a) Following the required medical examination for initial employment and any subsequent examinations as may be required for positive tuberculin reactors, a school district employee other than a bus driver shall submit to the local school superintendent the completed Medical Examination of School Employees form or

an electronic medical record that includes all of the data equivalent to that on the Medical Examination of School Employees form required by subsection (4) of this section.

(b) The medical examination shall be performed and signed for by a physician, physician's assistant, or an advanced practice registered nurse. Transmission of an electronic medical record to the school district via email from the health care provider's office may be accepted as the official signature.

(7) Documentation of a TST, BAMT, and chest x-ray, if performed, shall include:

(a) The date given;

(b) Type of test;

(c) Millimeters of induration;

(d) Date read and by whom; and

(e) Date x-ray taken and results as related to TB status.

(8)(a)1. A local board of education shall require all school personnel exhibiting symptoms of chronic respiratory disease to undergo a TB risk assessment and examinations as indicated.

2. The evaluation and any recommended treatment for TB infection shall be based upon the directives of the local board of health and the Kentucky Department for Public Health.

(b) An employee exposed to infectious TB shall be tested and, if necessary, treated for TB infection according to the directives of the local board of health.

(c) The school district shall require school district employees to undergo more extensive testing for TB if:

1. The number of active TB cases in the county is equal to or greater than the national average, as established by the Department for Public Health, Division of Epidemiology and Health Planning, Tuberculosis Prevention and Control Program; and

2. The local board of health, with the approval of the Kentucky Department for Public Health, requires more extensive testing for TB of school district employees.

Section 2. Preventive Student Health Care Examinations. (1)(a) A local board of education shall require a preventive health care examination for students within one (1) year prior to initial entry to school.

(b) A second examination shall be required within one (1) year prior to entry into the sixth grade. (c) A third examination may be required by policy of the local board of education within one (1) year prior to entry into the ninth grade.

(2) An out-of-state transfer student shall be required to submit documentation of a preventive health care examination.

(3) A local board of education may extend the deadline by which to obtain a preventive student health care examination, not to exceed two (2) months.

(4) A preventive student health care examination shall be performed and signed for by a physician, an advanced practice registered nurse, a physician's assistant, or by a health care provider in the early periodic screening diagnosis and treatment programs. Transmission of an electronic medical record to the school district via email from the health care provider's office may be accepted as the official signature.

(5) A preventive student health care examination shall be reported on the Preventive Student Health Care Examination Form, KDESHS002, or an electronic medical record that includes all of the data equivalent to that on the Preventive Student Health Care Examination Form, and shall include:

(a) A medical history;

(b) An assessment of growth and development and general appearance;

(c) A physical assessment including hearing and vision screening; and

(d) Recommendations to the school regarding health problems that may require special attention in classroom or physical education activities.

(6)(a) A vision examination shall be reported on the form, Kentucky Eye Examination Form for School Entry, KDESHS004, or other electronic medical record that includes all of the data equivalent to that on the Kentucky Eye Examination Form for School Entry.

(b) A dental screening or examination shall be reported on the form, Kentucky Dental Screening/Examination Form for School Entry, KDESHS005, or other electronic medical record that includes all of the data equivalent to that on the Kentucky Dental Screening/Examination Form for School Entry.

(7) A local school district shall establish a plan for implementation and compliance required for the sixth grade preventive student health care examination.

(8) A current Immunization Certificate, EPID-230, incorporated by reference into 902 KAR 2:060, or an immunization certificate meeting the requirements of 902 KAR 2:060, Section 4, shall be on file within two (2) weeks of the child's enrollment in school.

(9)(a) A board of education shall adopt a program of continuous health supervision for all currently enrolled students.

(b) Supervision shall include scheduled screening tests for vision and hearing.

(c) Supervision shall include the adoption of policies for the implementation of seizure ***action[~~actions~~]*** plans pursuant to KRS 158.838.***[~~"~~]***Seizure action plan***[~~"~~]*** shall have the same meaning as in KRS 158.832.

(10) A school shall have emergency care procedures, which shall include:

(a) First aid facilities meeting the requirements of 702 KAR 4:170, including provisions for designated areas for the child to recline;

(b) A requirement that whenever children are present during school hours, there shall be at least one (1) adult present in the school who is certified in a standard first aid course which includes CPR for infants and children;

(c) A requirement that, at all times when enrolled students, for whom documentation under KRS 158.838(2) or (7), including seizure action plans, has been provided to the school, are present during school hours or participating in school-related activities, there is a school employee who is trained to administer and can administer or assist with the self-administration of glucagon, insulin, or seizure[~~rescue~~] medications approved by the United States Food and Drug Administration or successor agency and administered pursuant to a student's seizure action plan. A student shall be permitted to conduct the actions and possess the supplies and equipment described in KRS 158.838(7) at school-related activities regardless of whether the student is a participant or mere observer of the school-related activity;

(d) A number at which parents can be reached; and

(e) The name of a family physician.

Section 3. Cumulative Health Records. (1) A school shall initiate a cumulative health record for each student entering its school.

(a) The record shall be maintained throughout the student's attendance.

(b) The record shall be uniform and shall be on the form Student's Cumulative Health Record, KDESHS006, or the record shall be maintained electronically in the student information system.

(c) The record shall include screening tests related to growth and development, vision, hearing, and any dental screenings other than the initial dental screening recorded on the Kentucky Dental Screening/Examination Form for School Entry, KDESHS005, and findings and recommendations of a health care provider and a dentist.

(d) A follow-up by the proper health or school authorities shall be made on each abnormality noted, and the result shall be recorded.

(2) A local school district shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. School District Health Personnel. (1) A superintendent shall designate a person to serve as school health coordinator for the district. The person designated shall meet the following minimum qualifications:

(a) A valid license to practice as a registered nurse, issued under KRS 314.041 by the Kentucky Board of Nursing, and three (3) years of registered nursing practice, as defined in KRS

314.011(6);

(b) A school psychologist certificate, issued by the Education Professional Standards Board (EPSB) pursuant to 16 KAR 2:090, and a minimum of three (3) years of related work experience in a school setting; or

(c) A school social worker certificate, issued by the EPSB pursuant to 16 KAR 2:070, and a minimum of three (3) years of work experience practicing social work in a school setting.

(2) The school health coordinator shall work in cooperation with all school personnel, the local board of education, the department, the local health department, and family resource and youth services centers, in promoting and implementing a school health services program.

Section 5. Delegation to Perform Medication Administration. A local board of education shall require proof that all unlicensed school personnel who have accepted delegation to perform medication administration in school have completed a training course provided by the department or allowed under KRS 158.838(1)(c). The department's course shall be developed in consultation with the Kentucky Board of Nursing to ensure compliance with 201 KAR 20:400 and KRS 156.502.

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

(a) "Medical Examination of School Employees", KDESHS001, January 1, 2015;

(b) "Preventive Student Health Care Examination Form", KDESHS002, January 1, 2015;

(c) "Student's Cumulative Health Record", KDESHS006, January 2, 2015;

(d) "Kentucky Eye Examination Form for School Entry", KDESHS004, January 1, 2015; and

(e) "Kentucky Dental Screening/Examination Form For School Entry", KDESHS005, January 2, 2015.

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This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

WAYNE D. LEWIS, Commissioner
HAL HEINER, Chairperson

APPROVED BY AGENCY: February 14, 2019

FILED WITH LRC: February 15, 2019 at 10 a.m.

CONTACT PERSON: Deanna L. Durrett, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601; phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(As Amended at EAARS, April 15, 2019)

703 KAR 5:270. Kentucky's Accountability System.

RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455, 20 U.S.C. 6311

STATUTORY AUTHORITY: KRS 158.6453, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools, and districts; complies with the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor; and ensures accountability. KRS 158.6455 requires the Kentucky Board of Education to create an accountability system to classify schools and districts, including a process for annual summative performance evaluations and goals for improvement. This administrative regulation establishes the statewide system of accountability, and meets requirements set forth in the federal Every Student Succeeds Act of 2015 at 20 U.S.C. 6311.

Section 1. Definitions. (1) "Achievement gap**[closure]**" means a**[combined]** measure of**[reducing]** the performance difference between student demographic groups to each other**[and to proficiency]** for reading and mathematics[each of the tested areas]. [(2) "Behavior events" are student infractions involving drugs, weapons, harassment including bullying, alcohol, tobacco, assault first degree, other assault or violence, and state resolutions not reported.

(3) "Catch up" means individual student performance below proficient grows enough to achieve proficiency or to be on track to become proficient.

(4) "Chronic absenteeism" means a student who misses ten (10) percent or more of his/her enrolled academic year].

(2)[(5)] "Comparison**[student]** group" means the student demographic group being contrasted to the reference group.**[(3)]**[(6)] **"Consolidated student groups" means a non-duplicated aggregation of student groups that includes: African American, Hispanic, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, students with disabilities who have an individual education program (IEP), and English learners.]**

(3)[(4)][(7)] "English learners" in the indicators of growth and transition readiness means students currently identified on an English language proficiency exam. For all other areas, it means students currently identified and those who continue to be monitored.[(8) "Essential skills" means the foundational abilities that include attendance, positive dispositions, and communication needed to successfully complete academic, workplace, or military responsibilities as demonstrated through a variety of co-curricular learning and leadership experiences.]

(4)[(5)][(9)] "Federal student group designation" means targeted support and improvement, and comprehensive support and improvement as provided in KRS 160.346.

(5)[(6)][(10)] "Federally defined student demographic groups" include White, African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, free/reduced-price meal eligible, students with disabilities who have an IEP, and English learners.

(6)[(7)][(11)] "Full academic year" means 100 or more instructional days of student enrollment within the school year.

(7)[(8)][(12)] "Graduation rate" means the percentage of students who enter high school and receive a diploma based on their cohort in four (4) and five (5) years, adjusting for transfers in and out, émigrés, and deceased students.

(8)[(9)][(13)] "Growth" means a student's continuous improvement toward proficiency or above.

(9)[(10)][(14)] "Indicator" means a component of the accountability system that provides specific information on the school or district.

(10)[(11)][(15)] "Individual education program" or "IEP" means an individual education program as defined in 707 KAR 1:002. [(16) "Keep up" means individual student performance at or above proficient that grows at a rate to maintain proficiency or above.

(17) "Less than catch up" means individual student performance below proficient and not on track to become proficient.]

(11)[(12)][(18)] "Local education agency" or "LEA" for the purposes of this administrative regulation shall mean a local school district as provided in KRS 161.010 and KRS 161.020 or a charter school board of directors as provided in KRS 161.1590. [(19) "Move up" means individual student performance at proficient that grows at a rate to be on track to become distinguished.

(20) "Opportunity and access" means equitable availability to research-based student experiences and school factors that impact student success.]

(12)[(13)][(21)] "Practical significance" means a measure of the

differences between student groups has real meaning.

(13)[(14)][(22)]"Proficiency indicator" means the measure of academic status or performance for reading and mathematics on state assessments.

(14)[(15)] [(23)] "Proficient" or "proficiency" means reaching the desired level of knowledge and skills as measured on academic assessments.

(15)[(16)] "Quality of school climate and safety **indicator"** means the measures of school environment.

(16)[(17)][(24)] "Rating" means the process of inclusion of an indicator in the formal overall rating of the school or district.

(17)[(18)][(25)] "Reference group" means a student demographic group to which another group is contrasted to provide a benchmark for performance.

(18)[(19)][(26)] "Separate academic indicator for science, social studies, and writing" means the measure of academic status or performance for science, social studies, and writing on state assessments.

(19)[(20)][(27)] "Transition readiness" means the attainment of the necessary knowledge, skills, and dispositions to successfully transition to the next level.

(20)[(21)][(28)] "Value table" means a set of numbers that are used to attribute scores to different performance levels.[(29) "Work ethic certification" means a process by which a student demonstrates essential skills and workplace readiness.]

(21)[(22)][(30)]"Writing" means the content area that includes on-demand writing, and editing and mechanics.

Section 2. Kentucky's accountability system that is used to classify schools and LEAs shall include the indicators of: proficiency; separate academic indicator for science, social studies, and writing; growth; transition readiness;**[achievement gap closure;]** quality of school climate and safety [opportunity and access]; and graduation rate. (1) The proficiency indicator shall be measured by student performance on state tests in reading and mathematics.

(2) A separate academic indicator shall be measured by student performance on state tests in science, social studies, and writing.

(3) The growth indicator shall be calculated at the elementary and middle school levels. The growth indicator shall be measured:

(a) Based on a growth value table in reading and mathematics; and

(b) Progress toward achieving English proficiency by English learners. **[(4) The achievement gap closure indicator shall be measured as follows:**

(a) Reducing the gap in performance between the following comparison groups and reference group in the combined content areas of reading and] [,] **[mathematics]** [, science, social studies, and writing]**[:**

1. African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, White, and two (2) or more races compared to the reference group, which shall be the highest of these;

2. Free and] [/] **[reduced-price meal eligible students compared to non-free and]** [/] **[reduced /reduced-price meal eligible students;**

3. Students with disabilities who have an IEP compared to students without IEPs; and

4. English learners compared to non-English learners.

(b) Reducing the gap to proficiency for the combined content areas of reading and] [,] **[mathematics]** [, science, social studies, and writing by the following groups]**[: White, African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, free and]** [/] **[reduced and]** [/] **[reduced-price meal eligible, students with disabilities who have an IEP, English learners, and a consolidated student group.]**

(4)[(5)] The quality of school climate and safety indicator **shall include perception data from surveys that measure insight to the school environment.**[The opportunity and access indicator shall be measured for rich curricula, equitable access, and school quality as follows:

(a) Elementary schools that provide all students opportunities and access to:

1. Rich curricula annually including:

a. Visual and performing arts;

b. Health and physical education;

c. Science; and

d. Social studies.

2. School quality as measured by a lack of student chronic absenteeism, behavior events, and physical restraint and seclusion.

3. Equitable access by federally defined student demographic groups in proportion to the school population to gifted and talented services excluding the primary talent pool.

(b) Middle schools that provide all students opportunities and access to:

1. Rich curricula annually including:

a. Visual and performing arts;

b. Health and physical education;

c. Science;

d. Social studies; and

e. Career exploration including career and technical education courses, other courses that focus on essential skills and co-curricular learning and leadership experiences.

2. School quality as indicated by a lack of student chronic absenteeism, behavior events, and physical restraint and seclusion.

3. Equitable access of federally defined student demographic groups in proportion to the school population to gifted and talented services.

(c) High schools that provide all students with opportunities and access to:

1. Rich curricula including:

a. Visual and performing arts;

b. Health and physical education;

c. Cultural studies or world language;

d. Career and technical education (CTE), including specialized career pathways in state and regional high demand sectors as approved by Kentucky's Workforce Innovation Board; and

e. Essential skills demonstrated as part of a work ethic certification.

2. School quality as indicated by a lack of student chronic absenteeism, behavior events, and restraint and seclusion.

3. Equitable access of federally defined student demographic groups to the following advanced coursework: advanced placement, international baccalaureate, Cambridge Advanced International, and dual credit.]

(5)[(6)] The transition readiness indicator shall be measured at high school for students meeting the following criteria:[(a) At the elementary and middle school level, students meet or exceed the benchmark on a composite score that combines student performance on state-required assessments for reading, mathematics, science, social studies, and writing. A composite score shall include the most recent content area assessment by grade level available for each school. Students participating in the alternate assessment program will have criteria based on alternate assessment requirements.

(b) At the high school level, students:]

(a)[1.] Earn a regular or alternative high school diploma; and

(b)[2.] Achieve academic readiness or career readiness.

1.[a.] A school shall receive credit for each student demonstrating academic readiness by:

a.[(i)] Scoring at or above the benchmark score as determined by the Council on Postsecondary Education (CPE) on the college admissions examination ***or college placement examination***; or

b.[(ii)] Completing six (6)[or more] hours of Kentucky Department of Education approved dual credit and receiving a grade of C [B] or higher in each course; or

c.[(iii)] Completing two (2)[or more] advanced placement (AP) courses and receiving a score of three (3) or higher on each AP assessment; or

d.[(iv)] Receiving a score of five (5) or higher on two (2) examinations for international baccalaureate courses; or

e.[(v)] Scoring at or above the benchmark on two (2)[or more] Cambridge Advanced International examinations; or

f.[~~(vi)~~] Completing a combination of academic readiness indicators listed above.

g.[~~(vii)~~] Demonstration of academic readiness listed in paragraph **5[6]** (b)1[~~2.a.~~] of this section shall include one (1) quantitative reasoning or natural sciences and one (1) written or oral communication**;[,]** or **visual and performing** arts**; or[and]** humanities**;[,]** or social and behavioral sciences learning outcomes.

2.[~~b.~~] A school shall receive credit for each student demonstrating career readiness by:

a.[~~(i)~~] Scoring at or above the benchmark on industry certifications as approved by the Kentucky Workforce Innovation Board on an annual basis; or

b.[~~(ii)~~] Scoring at or above the benchmark on the career and technical education end-of-program assessment for articulated credit; or

c.[~~(iii)~~] Completing six (6)[~~or more~~] hours of Kentucky Department of Education approved CTE dual credit, and receiving a grade of C[~~B~~] or higher in each course; or

d.[~~(iv)~~] Completing a Kentucky Department of Education approved or labor cabinet-approved apprenticeship; or

e.[~~(v)~~] Completing a Kentucky Department of Education approved alternate process to verify exceptional work experience.

3.[~~c.~~] For students who qualify as English learners in high school: Meeting criteria for English language proficiency to be English language ready.

4.[~~d.~~] Students participating in the alternate assessment program shall meet criteria based on academic or career alternate assessment requirements.

(6)[~~(7)~~] The graduation rate indicator shall be measured for each high school using the four (4)-year and extended five (5)-year cohort rate. The graduation rate shall be reported for all students and student groups.

Section 3. Classification of Schools and LEAs in the State Accountability System. (1) Data shall be included in the overall rating for schools and LEAs for the following indicators:

(a) Proficiency (reading and mathematics);

(b) Separate academic indicator (science, social studies, and writing);

(c) Growth (elementary and middle school);

(d) Transition readiness (high school); **[~~(e) Achievement gap closure;~~]**

(e)[~~(f)~~] Quality of school climate and safety[~~Opportunity and access (school quality/student success)~~]; and

(f)[~~(g)~~] Graduation rate (high school).

(2) Data from individual student performance on state assessments administered as required in KRS 158.6451 and KRS 158.6453 shall be included in the overall rating of each school and LEA. This data shall include students with disabilities with IEPs who participate in the alternate assessment program.

(3) Data in the overall rating shall be attributed to grade level spans for schools and LEA as established in this subsection.

(a) Elementary schools shall include data from: proficiency; separate academic indicator for science, social studies, and writing; growth;**[~~achievement gap closure;~~]** quality of school climate and safety[~~transition readiness; opportunity and access~~]; and federal student group designation.

(b) Middle schools shall include data from: proficiency; separate academic indicator for science, social studies, and writing; growth; **[~~achievement gap closure;~~]** quality of school climate and safety [~~transition readiness; opportunity and access~~]; and federal student group designation.

(c) High schools shall include data from: proficiency; separate academic indicator for science, social studies, and writing; **[~~achievement gap closure;~~]** transition readiness; graduation rate; quality of school climate and safety [~~opportunity and access;~~] and federal student group designation.

(d) LEAs shall include data from: school proficiency; separate academic indicator for science, social studies, and writing, growth; **[~~achievement gap closure;~~]** transition readiness; graduation rate; and quality of school climate and safety[~~opportunity and access~~].

Section 4. Calculations for Reporting Categories. (1) Proficiency for reading and mathematics shall be rated equally in elementary, middle and high schools and LEAs by awarding points as described in paragraph 2(b) of this section.

(2) The separate academic indicator for science, social studies, and writing shall be rated in elementary, middle and high schools, and in LEAs by awarding points as described in paragraph 2(b) of this section. The highest proportion shall be attributed to science and social studies.

(a) For any content area (reading, mathematics, science, social studies, and writing) where data are not available, the data of the remaining content areas shall be redistributed proportionally across proficiency and separate academic indicator.

(b) The following chart shall be used to calculate the points for proficiency and the separate academic indicator:

Proficiency Levels	Points Awarded for Each Percent of Students
Novice	0
Apprentice	.5
Proficient	1
Distinguished	1.25

[~~(3) The achievement gap closure indicator that includes gap to group and gap to proficiency shall be calculated as established in this subsection.~~

~~(a) School achievement gap closure between student demographic comparison groups and reference groups shall be determined by:~~

~~1. Determining the student demographic groups to be included in this subsection, which shall include the following student demographic groups that have at least ten (10) students: African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, and White.~~

~~a. Comparing African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, and White to a reference group. The reference group shall be the highest performing racial~~] [*/*] **[~~ethnic student group that has at least ten (10) students and constitutes at least ten (10) percent of the students enrolled in the school;~~**

~~b. Free/reduced-price meal eligible students compared to non-free/reduced-price meal eligible students;~~

~~c. Students with disabilities who have an IEP compared to students without IEPs; and~~

~~d. English learners compared to non-English learner students.~~

~~2. Combining scores for reading and mathematics~~] [~~each tested~~] **[~~content area assessment using points in accordance with paragraph 2(b) of Section 4 of this administrative regulation for each student demographic group.~~**

~~3. Using a statistical analysis for each pair of comparison-reference groups, the department shall determine if a significant gap has been sufficiently reduced between the comparison group and reference group and is both statistically and practically significant. If so, the gap closure for the student demographic group will be considered "significant" and the school will receive one (1) gap closure point. If the gap between groups is not significantly reduced, the gap will be considered "not significant" and the school will receive zero gap closure points.~~

~~(b) School achievement gap closure between student demographic groups and proficiency shall be determined as follows:~~

~~1. Determine which student demographic groups have at least ten (10) students that are to be included in this subsection. Student demographic groups included in the subsection shall include:~~

~~a. White;~~

~~b. African American;~~

~~c. Hispanic or Latino;~~

~~d. Asian;~~

~~e. Native Hawaiian or other Pacific Islander;~~

~~f. American Indian or Alaska Native;~~

~~g. Two (2) or more races~~] [*/*] **[~~ethnicities;~~**

h. Students in poverty based on eligibility for free and] [/] **[reduced-price meals;**

i. Students with disabilities who have an IEP;

j. English learners; and

k. A consolidated student group.

2. Combining scores for reading and mathematics] [all] **[content area assessments into an index using points in accordance with paragraph 2(b) of Section 4 of this administrative regulation for each student demographic group.**

3. Compare the index to the current year's annual target developed by the Kentucky Department of Education for each student demographic group in the combined content areas of reading and][,]**[mathematics]**[,science, social studies, and writing]**[.**

4. If the current year index is equal to or greater than the current year's annual target for each student demographic group in the combined content areas of reading and] [,] **[mathematics]**[, science, social studies, and writing]**[, the student demographic group gap shall be considered "reduced" and the school shall receive two (2) gap closure points.**

5. If the current year index is equal to or greater than the current year's annual target for each student demographic group in the combined content areas of reading and] [,] **[mathematics]**[, science, social studies, and writing] **[minus a sufficient percentage point, the student demographic group gap is considered "partially reduced" and the school shall receive one (1) gap closure point.**

6. If the current year index is less than the current year's annual target for each student demographic group in the combined content areas of reading and] [,] **[mathematics]**[, science, social studies, and writing] **[minus a sufficient percentage point, the student demographic group gap is considered "not reduced" and the school shall receive zero gap closure points.**

(c) Sum the total achievement gap closure points across all student demographic groups and divide by the number of student demographic groups for gap to group and gap to proficiency.

(d) Based on total achievement gap closure points, the Kentucky Department of Education shall conduct a standards setting process involving Kentucky educators and advised by technical experts shall place the school and LEA into categories of very low, low, medium, high, or very high.

(e) Each student demographic group shall have a minimum of ten (10) students per content area in the school or LEA in order to include gap data in accountability.][(f) In calculating the achievement gap closure indicator, the reduction of achievement gap between student demographic groups shall be weighted thirty-three (33) percent and the reduction of the gap to proficiency shall be weighted sixty-seven (67) percent.]

(3)[(4)] Growth shall be rated for elementary and middle schools as established in this subsection.

(a) Novice and apprentice performance levels for growth calculations shall be subdivided into novice high, novice low; and apprentice high, apprentice low. [(b) Based on prior and current year performance, points for student performance level shall be assigned from a growth value table based on a projection of student performance and reported using the following terms: less than catch up, catch up, keep up, and move up.]

(b)[(c)] The school calculation for mathematics shall be the sum of the total points from the growth value table for all students divided by the total number of scores.

(c)[(d)] The values in the growth value table below shall be used in calculating growth in this subsection.

Growth Value Table (Points for student performance in Year 2, given Performance in Year 1)						
[Projected]	Novice		Apprentice		Proficient	Distinguished
[Current] Year 1 Student Performance	Low	High	Low	High		
Distinguished	0	0	0	0	0	50
	[-1.50 (L)]	[-1.25 (L)]	[-1.00 (L)]	[-0.75 (L)]	[0.00 (K)]	[0.25 (K)]
Proficient	0 [-1.00 (L)]	0 [-0.75 (L)]	0 [-0.50 (L)]	0 [-0.25 (L)]	50 [0.25 (K)]	100 [0.50 (M)]
Apprentice High	0 [-0.75 (L)]	0 [-0.50 (L)]	0 [-0.25 (L)]	50 [0 (L)]	100 [0.25 (C)]	150 [0.75 (M)]
Apprentice Low	0 [-0.50 (L)]	0 [-0.25 (L)]	50 [0 (L)]	100 [0.25 (L)]	150 [0.50 (C)]	200 [1.00 (M)]
Novice High	0 [-0.25 (L)]	50 [0 (L)]	100 [0.25 (L)]	150 [0.50 (C)]	200 [0.75 (C)]	250 [1.25 (M)]
Novice Low	0 [(L)]	100 [0.25 (L)]	150 [0.50 (C)]	200 [0.75 (C)]	250 [1.00 (C)]	300 [1.50 (M)]

[Less than Catch Up (L)]

[Moving Up (M)]

[Catching Up (C)]

[Keeping Up (K)]

(d)[(e)] The school calculation for reading shall be the sum of the total points for all students from the growth value table plus growth for English language proficiency as described in Section 4**(3)(e)[(4)(f)]**[(g)] of this administrative regulation divided by the total number of scores.

(e)[(f)] Progress toward achieving English proficiency by English learners shall be calculated as follows:

1. Individual growth shall be compared to prior year performance on an English proficiency exam.

2. The exit benchmark and English learner growth value table created involving Kentucky educators and advised by technical experts shall be utilized.

3. Points for each English learner based on the English learner growth value table shall be summed.

a. Depending on further analysis, Kentucky may modify the value table and its use to reflect factors that may impact English learners' progress toward language proficiency, including age upon entry to U.S. schools, initial English language proficiency level, and degree of interrupted schooling.

b. The values in the growth value table below shall be used in calculating growth in this subsection.

WIDA ACCESS score previous year	WIDA ACCESS score current year							
	1	1.5	2.0	2.5	3.0	3.5	4.0	4.5
4.0	0 [-1.5]	0 [-1.25]	0 [-1.0]	0 [-.75]	0 [-.50]	0 [-.25]	50 [0]	100 [.25]
3.5	0 [-1.25]	0 [-1.0]	0 [-.75]	0 [-.50]	0 [-.25]	50 [0]	100 [.25]	150 [.5]
3.0	0 [-1.0]	0 [-.75]	0 [-.50]	0 [-.25]	50 [0]	100 [.25]	150 [.50]	200 [.75]
2.5	0 [-.75]	0 [-.50]	0 [-.25]	50 [0]	100 [.25]	150 [.50]	200 [.75]	250 [1.0]
2.0	0 [-.50]	0 [-.25]	50 [0]	100 [.25]	150 [.50]	200 [.75]	250 [1.0]	300 [1.25]
1.5	0 [-.25]	50 [0]	100 [.25]	150 [.50]	200 [.75]	250 [1.0]	300 [1.25]	300 [1.5]
1.0	0	100 [.25]	150 [.50]	200 [.75]	250 [1.0]	300 [1.25]	300 [1.5]	300 [1.5]

4. Total points for English learners shall be added to the sum of the reading growth points for all students in reading as described in Section 4**(3)(e)[(4)(f)]**[(g)] of this administrative regulation.

(f)[(g)] For an overall school growth score, an average of reading scores that includes growth for English learners on an English proficiency exam and mathematics growth scores shall be calculated.

(4)[(5)] The quality of school climate and safety[opportunity and access] indicator shall be rated for elementary, middle, high schools, and LEAs as established in this subsection.[(a) Opportunity and access school calculation shall sum the total number of points for the categories for rich curricula, equitable access, and school quality based on data collected from Kentucky's student information system and other statewide systems for individual students.] **[(a)]**[(b)] The Kentucky Board of Education shall approve the measures of **quality of** school climate and safety[opportunity and access]**[including the accumulation of credit]**. **[(b)]**[(c)] **[A standard setting process shall be conducted involving Kentucky educators and advised by technical experts to determine very low to very high performance levels][within quality of school climate and safety]**[opportunity and access]**[.]**

(5)[(6)] Transition readiness shall be[rated as established by this subsection.

(a) A transition readiness percentage shall be] calculated by dividing the number of high school graduates who have met measures of transition readiness plus the number of English learners who have achieved English language proficiency by the total number of graduates plus the number of graduates who have received English language services during high school. Credit for students obtaining an industry-recognized certification, licensure, or credential in specialized career pathways in state and regional high demand sectors as approved by Kentucky's Workforce Innovation Board is one and one-quarter (1.25) points. Credit for students obtaining all other readiness indicators is one (1.0) point. [(b) A transition readiness percentage shall be calculated for elementary and middle schools by dividing the number of students who have met a benchmark on a composite score that combines student performance on state-required tests in reading, mathematics, science, social studies, and writing for transition readiness by the total number of accountable students.]

(6)[(7)] Graduation rate is the percentage of students completing the requirements for a Kentucky high school diploma compared to the cohort of students beginning in grade nine. **The accountability system[Kentucky]** shall include a four (4) year cohort rate and an extended five (5) year cohort rate. Each rate shall be weighted equally.

(7)[(8)] The overall rating shall be assigned as follows:

(a) The indicators for each school and LEA as identified in Section 3 of this administrative regulation shall contribute to the overall rating of schools and LEAs.

(b) Indicators identified in Section 3 shall have a rating of very low, low, medium, high, or very high by school and LEA level.

(c) A standard setting process shall be conducted involving Kentucky educators and advised by technical experts to determine very low to very high performance levels for each indicator including proficiency, separate academic indicator, growth, transition readiness, graduation rate, and quality of school climate and safety.[(9) An overall rating based upon performance on the set of indicators for elementary and middle schools, high schools, and LEAs shall be assigned during a standards setting process. The tables below illustrate some of the combinations of performance for each star rating:]

(8)[(a) Overall ratings] **An overall star rating for elementary, middle, and high schools** shall be reported using a five (5) star rating system to communicate performance of schools,**[LEAs, and the state]** with one (1) star being the lowest rating and five (5) stars being the highest rating. **Performance of schools, LEAs, and state will be reported by level (elementary, middle, and high) as applicable. The School Report Card shall display the star ratings earned for each school, LEA, and state (by level) and the total five (5) stars available.**

[Elementary/Middle Schools

Overall Rating	**Proficiency (Reading & Mathematics)**	**Separate Academic Indicator (Science, Social Studies, and Writing)**	**Growth (including English Language Learners)**	**Achievement Gap Closure**	**Quality of School Climate and Safety [Opportunity & Access]**	**[Transition Readiness (Composite scores at grades 5 and 8)]**	**Federal Student Group Designation**	**Notes**
	Note: Standard setting will confirm level of indicator performance necessary for the Star ratings.							**Can receive no higher than a 3-Star rating if Achievement Gap Closure is "Low (L)," "Very Low (VL)" or if identified for Targeted Support and Improvement (TSI).**
5 Stars	**Very High** **High**	**Very High** **High**	**Very High** **Low**	**Very High** **High**	**Very High** **High**	**[Very High** **High]**	**No designation**	
4 Stars	**Any 5-star combination except Achievement Gap Closure is Medium**						**No designation**	
	One Medium, three [four] High **Two [Three] Medium, two High**					**[High** **Medium]**		
3 Stars	**Any 4- or 5-Star combination except Achievement Gap Closure is Low** **Or Any 4- or 5-Star combination**						**No designation** **TSI**	***Schools identified for Comprehensive Support and Improvement (CSI) are classified with a 1 Star rating.**
	Three [Four] Medium, one High **Three [Four] Medium, one Low**					**[High Medium** **High Low]**	**No designation or TSI**	
2 Stars	**Two [Three] Medium, two Low** **One Medium, three [four] Low**					**[Medium Low]**	**No designation or TSI**	
1 Star	**Five [Six Low] or Very Low** **Or bottom 5%***						**CSI or TSI]**	

[High Schools								
Overall Rating	Proficiency (Reading & Mathematics)	Separate Academic Indicator (Science, Social Studies, & Writing)	Other Academic Indicator Transition Readiness (including English Language Learners)	Achieve-ment Gap Closure	Quality of School Climate and Safety [Oppor-tunity & Access]	Graduation Rate	Federal Student Group Designation	Notes
	Note: Standard setting will confirm level of indicator performance necessary for the Star ratings.							Can receive no higher than a 3-Star rating if Achievement Gap Closure is "Low (L)," "Very Low (VL)" or if identified for Targeted Support and Improvement (TSI).
5 Stars	Very High High	Very High High	Very High High	Very High High	Very High Very High	Very High Very High	No designation	
4 Stars	Any 5-star combination except Achievement Gap Closure is Medium						No designation	
	One Medium, four High Three Medium, two High					High Medium	No designation	
3 Stars	Any 4- or 5-Star combination except Achievement Gap Closure is Low Or Any 4- or 5-Star combination						No designation TSI	*Schools identified for Comprehensive Support and Improvement (CSI) are classified with a 1 Star rating.
	Four Medium, one High Four Medium, one Low					High Medium High Low	No designation or TSI	
2 Stars	Three Medium, two Low One Medium, four Low					Medium Low	No designation or TSI	
1 Star	Six Low or Very Low Or bottom 5%*						CSI or TSI]	

[LEA								
Overall Rating	Proficiency (Reading & Mathematics)	Separate Academic Indicator (Science, Social Studies, & Writing)	Growth (including English Language Learners)	Achieve-ment Gap Closure	Quality of School Climate and Safety [Opportunity & Access]	Transition Readiness [(Composite at grades 5 and 8,] (High school includes English language learners)	Graduation Rate (4 and 5 year cohort)	Notes
-	Note: Standard setting will confirm level of indicator performance necessary for the Star ratings.							Can receive no higher than a 3-Star rating if Achievement Gap Closure is "Low (L)," "Very Low (VL)" or there is a significant number of schools identified as CSI or TSI.
5 Stars	Very High High	Very High High	Very High Low	Very High High	Very High Very High	Very High High	Very High High	
4 Stars	Any 5-star combination except Achievement Gap Closure is Medium							
	One Medium, five High Three Medium, three High						High Medium	
3 Stars	Any 4- or 5-Star combination except Achievement Gap Closure is Low Or Any 4- or 5-Star combination						High Medium	
	Five Medium, one High Five Medium, one Low						High Low	
2 Stars	Four Medium, two Low Two Medium, four Low						Medium Low	
1 Star	Six Low or Very Low						Low]	

(a)[~~(b)~~] Each star rating reflects **grade span**[~~a combination of school~~] performance on **the indicators and weights in the table below**.[~~The range of performance in the tables elementary, [/] middle schools, high schools and LEAs as shown below indicate the upper bound and the lower bound of performance described as very low, low, medium, high, and very high.~~]

Overall Accountability Weights						
	Proficiency (Reading and Mathematics)	**Separate Academic Indicator (Science, Social Studies, and Writing)**	**Growth (including English Language Learners)**	**Quality of School Climate and Safety**	**Transition Readiness (High school includes English language) learners)**	**Graduation Rate (4 and 5 year cohort)**
Elementary/ Middle Schools	**35**	**26**	**35**	**4**	**--**	**---**
High Schools	**45**	**15**	**---**	**4**	**30**	**6**

[~~(c) The relationship between each category and the approximate weight of proficiency, a separate academic indicator for science, social studies, and writing, achievement gap closure, growth, transition readiness, quality of school climate and safety~~] [~~opportunity and access~~][~~, and graduation rate shall be included in the overall rating.~~]

(b)[~~(d) The individual indicators and the overall rating shall be developed through a standard setting process involving Kentucky educators and advised by technical experts.~~] **The performance on indicators that contribute to the overall star ratings shall be determined by a standards setting process involving Kentucky educators.**[~~During the standard setting process, the approximate weights in the following table shall be considered. The proposed ranges in the table indicate the relative emphasis between indicators. The ranges are set to guide Kentucky educators to determine the combination of performance from very high to very low within the indicator during standard setting.~~

~~Overall Accountability Weights~~							
	~~Proficiency (Reading and Mathematics)~~	~~Separate Academic Indicator (Science, Social Studies, and Writing)~~	~~Growth (including English Language Learners)~~	~~Achievement Gap Closure~~	~~Quality of School Climate and Safety [Opportunity & Access]~~	~~Transition Readiness [(Composite at grades 5 & 8)] (High school includes English language) learners)~~	~~Graduation Rate (4 and 5 year cohort)~~
~~Elementary/ Middle Schools~~	~~15-25~~	~~15-25~~	~~20-30~~	~~15-25~~	~~10-20~~	~~---~~ [~~5-10~~]	~~---~~
~~High Schools~~	~~10-40~~	~~10-20~~	~~---~~	~~10-25~~	~~10-20~~	~~15-30~~	~~5-15~~
~~Districts~~	~~10-20~~	~~10-20~~	~~10-20~~	~~10-20~~	~~10-20~~	~~10-20~~	~~5-15~~

~~(e) A school shall receive a federal student group designation for statistically significant achievement gaps or low-performing students and shall not be rated above three (3) stars.~~]

(c)[~~(f)~~] **If achievement gaps are found in schools and LEAs earning a four (4) or five (5) star rating, the star rating will be reduced by one (1) star.**

1. Achievement gap shall be calculated between student demographic comparison groups and reference groups for reading and mathematics combined by:

a. Determining the student demographic groups to be included in this subsection, which shall include the following student demographic groups that have at least ten (10) students: African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, and White.

(i) Comparing African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, and White to a reference group. The reference group shall be the highest performing racial and ethnic student group that has at least ten (10) students and constitutes at least ten (10) percent of the students enrolled in the school;

(ii) Free and reduced price meal eligible students compared to non-free and reduced price meal eligible students;

(iii) Students with disabilities who have an IEP compared to students without IEPs; and

(iv) English learners compared to non-English learner students.

b. Using a statistical analysis for each pair of comparison and reference groups, the department shall determine if a gap between the comparison group and reference group is both statistically and practically significant.[~~Schools and LEAs shall not be rated above three (3) stars if they:~~

~~1. Have an achievement gap closure indicator of low (L) or very low (VL), or~~

~~2. Are identified for targeted support and improvement (TSI), or~~

~~3. Have statistically significant achievement gaps.~~]

(d)[~~(g)~~] Kentucky will identify schools to determine bottom five (5) percent and ten (10) percent based on the indicators of the (five) 5-star system.

(e)[~~(h)~~] If data cannot be calculated for an indicator, the weights shall be redistributed proportionally to remaining indicators that shall be reported for the school or LEA.

(9) [~~(10)~~] School accountability indicators shall be assigned as follows:

(a) Students enrolled for a full academic year shall be included in the calculations for proficiency, a separate academic indicator for science, social studies, and writing,[~~achievement gap closure~~], growth, quality of school climate and safety, and transition readiness for a school and LEA.[~~(b) Opportunity and access calculations shall be based on the students' enrollment~~.]

(b)[~~(c)~~] Graduation rate calculations shall be based on the students' final enrollment.

(c)[~~(d)~~] Student demographic groups shall have a minimum of ten (10) students to be included in school rating calculations.

(d)[~~(e)~~] In accordance with KRS 158.6455, schools and districts shall be placed into one (1) of five (5) star ratings established by a standards-setting process utilizing results from the first operational administration of assessments in 2018-19. The process shall:

1. Be advised by the National Technical Advisory Panel on Assessment and Accountability; the School Curriculum, Assessment and Accountability Council; and the Office of Education Accountability; and

2. Use accepted technical procedures and involve Kentucky school and district administrators and teachers.

Section 5. Public reporting requirements. (1) The Kentucky Department of Education shall report disaggregated data for each indicator of the state assessment and accountability system.

(2) Progress on long-term and interim goals shall be reported

publicly as required by the federal Every Student Succeeds Act. Goals shall be developed for every student group, including all students, for academic achievement in each content area of reading, mathematics, science, social studies, and writing, and the content areas combined; graduation rate based on four (4) year and five (5) year adjusted cohorts; and progress on English proficiency for English learners.

(3) The goal for academic achievement operationalizes both the improvement of proficient and distinguished performance for all students and each student group and the reduction of gaps in student group performance by fifty (50) percent by 2030. Each student group of ten (10) or more students shall be compared to the reference group of the highest performing student group that is at least ten (10) percent of the student population.

(4) Goals for graduation rate shall be generated for a four (4) year adjusted cohort to ninety-five (95) percent for all students and an extended five (5) year cohort to ninety-six (96) percent for all students. The goal for progress on English language proficiency shall be based on the percent of students making progress toward attainment of the English language.

(5) Performance levels of each indicator (proficiency for reading and mathematics, a separate academic indicator for science, social studies, and writing, growth, transition readiness, quality of school climate and safety, and graduation rate) from very low to very high on each indicator will be determined by Kentucky educators with a standards setting process.

(6) Federal designations and statistically and practically significant achievement gaps will be reported for each school, LEA, and state.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

WAYNE D. LEWIS, Ph.D., Commissioner
HAL HEINER, Chairperson

APPROVED BY AGENCY: February 14, 2019

FILED WITH LRC: February 15, 2019 at 10 a.m.

CONTACT PERSON: Deanna L. Durrett, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601; phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

PUBLIC PROTECTION CABINET
Department of Insurance
(As Amended at ARRS, April 9, 2019)

806 KAR 2:092. Disclosure of local government taxes and collection fee.

RELATES TO: KRS 91A.080, 91A.0804, 91A.0810, 304.3-150[~~304.3~~]

STATUTORY AUTHORITY: KRS ***91A.080,*** 91A.0810[~~91A.0810(2)~~]

NECESSITY, FUNCTION, AND CONFORMITY:[~~EO 2008-507, signed June 6, 2008, and effective June 16, 2008, created the Department of Insurance, headed by the Commissioner of Insurance.~~] KRS 91A.0810[~~(2)~~] requires an insurance company to disclose the amount[~~notify each current policyholder~~] of[~~their rights regarding payment of~~] local government premium taxes charged[~~and further requires the Kentucky Office of Insurance~~] to[~~promulgate~~] an insured[~~administrative regulation setting forth the text of that notice. This administrative regulation prescribes the text to be used by insurance companies when notifying their current policyholders of the payment for local government taxes~~] and identify the taxing jurisdiction. ***KRS 91A.080 provides the Department of Insurance with general oversight over the local government premium tax system and express authority to promulgate administrative regulations providing for a reasonable collection fee and the accounting and reporting procedures related to the collection and reporting of the license fees, taxes, and collection fees. HB 524 of the 2008 Regular Session, which included new sections of Chapter 91A and required disclosures, reinforced the Department's authority by providing a two year period for assessments to pay for the Department's costs in administering the various local government premium tax requirements.***[~~process for appealing a payment.~~] This administrative regulation[~~also~~] sets minimum standards for the[~~future~~] disclosure of local government taxes and collection fees to policyholders.

Section 1. Definitions.

(1) "Collection fee" means the fee established in KRS 91A.080(4).

(2) "Insurance company" means:

(a) An[~~means an~~] entity holding a certificate of authority in accordance with KRS 304.3-150; and

(b) A surplus lines broker licensed in accordance with KRS 304.10-120.[~~304.3.~~]

(3) "Local government tax" or "tax" means the license fee or tax imposed by a local government in accordance with KRS 91A.080, except the collection fee.

Section 2.[~~Notice to Current Policyholders. (1) Before December 31, 2008, an insurance company shall provide each policyholder who has a policy in effect on July 15, 2008, with a one (1) time notice that states, "Your insurance premium may be subject to a license fee or tax imposed by your local government. The amount of the fee or tax is determined by the local government where the insured risk is located. The tax and any collection fee, if included in the charges to you, will be shown on all future renewal certificates or premium billings for your policy. If you believe that you have been erroneously charged or have been overcharged the tax, you may contact us for information on how to request a refund or credit for the tax paid."~~

~~(2) An insurance company may include specific contact information in the notice sent to policyholders pursuant to subsection (1) of this section.~~

~~(3) If a policyholder is insured under more than one (1) policy with an insurance company, the insurance company may send one (1) notice to the policyholder to satisfy the requirements of subsection one (1) of this section.~~

~~Section 3.~~] Disclosure of Local Government Tax.

(1) An[~~On and after December 31, 2008, an~~] insurance company shall disclose to the policyholder the amount of local government tax being charged to the policyholder and the taxing jurisdiction to which the tax is due.

(2) Disclosure of a local government tax shall not be required if the insurance company does not charge the tax to the policyholder.

(3) The disclosure shall:

(a) Itemize:

1. The amount of tax and any collection fee charged to the policyholder for each taxing jurisdiction; and

2. The name or abbreviation clearly identifying each corresponding taxing jurisdiction to which the tax is due; and

(b) Be provided to the policyholder:

1. For newly issued policies, on the:

a. Policy;

b. Declaration sheet; or

c. Initial billing; and

2. For renewed policies, on the:

a. Renewal certificate upon renewal of the policy; or

b. Billing for each period for which premium or additional premium is charged to a policyholder by the insurance company.

(4)(a) If local government tax is owed to multiple taxing jurisdictions, the disclosure required in subsection (3) of this section shall list separately each taxing jurisdiction to which tax is owed.

(b) If a credit of a city tax is applied to a county tax pursuant to KRS 91A.080(12), and the result is that no tax is owed to the county, the disclosure may include the county in the itemization of taxing jurisdictions required in subsection (3) of this section.

(5) If a collection fee is included in the amount charged to the policyholder, the disclosure shall state that the amount includes the tax and a collection fee.

(6)(a) An insurance company may provide the disclosure on a notice separate from either the renewal certificate or billing if providing the disclosure on the renewal certificate or billing would cause the disclosure to be illegible due to type size or other space considerations.

(b) If the disclosure is provided on a separate notice, the insurance company shall provide the disclosure to the policyholder at the same time and in the same manner as the insurance company provides the renewal certificate or billing.

Section 3. Collection Fee. (1) An insurance company may charge to and collect from an insured a collection fee in addition to a local government tax.

(2) An insurer may charge up to the maximum collection fee established in KRS 91A.080(4).

(3) If an insurance company is owed a refund or credit on the local government premium tax charged to a policyholder, any collection fee received by the insurance company shall be returned to the policyholder on a pro rata basis.

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: October 12, 2018
FILED WITH LRC: October 15, 2018 at 9 a.m.
CONTACT PERSON: Patrick O'Connor II, Deputy Commissioner, Policy, 215 W. Main Street, Frankfort, Kentucky 40602, phone 502-564-6026, email patrick.oconnor@ky.gov.

PUBLIC PROTECTION CABINET
Department Of Insurance
(As Amended at ARRS, April 9, 2019)

806 KAR 2:100. Disclosure of insurance premium[~~KRS 136.392~~] surcharge.

RELATES TO: KRS 136.392
STATUTORY AUTHORITY: KRS[~~Chapter 13A,~~] 136.392***(1)(a)***
NECESSITY, FUNCTION, AND CONFORMITY: KRS 136.392***(1)(a)*** requires[~~provides~~] that the premium surcharge collected[~~required~~] by an insurer[~~that section~~] shall be disclosed to policyholders pursuant to administrative regulations[~~which shall be~~] promulgated by the commissioner[~~Executive Director~~] of the Department of Insurance. This administrative regulation ***establishes[~~prescribes~~]*** the manner in which the surcharge required by KRS 136.392 is to be disclosed to policyholders.

Section 1. (1) Each policy subject to KRS 136.392 issued to an insured***[~~for the first time~~]*** shall include a notice, conspicuously placed on the declarations page, renewal certificate, or billing instrument, indicating that the premium includes the surcharge required by KRS 136.392.[~~Such notice shall be placed on the declarations page of the policy by use of a typewriter, stamp, sticker, or any other reasonable means approved by the Executive Director.~~]

(2) The[~~At the option of the insurer, such notice may be placed on renewal certificates and billings issued subsequent to the original policy.~~

~~(3) At the option of the insurer, the~~] amount of[~~the~~] surcharge shall[~~may~~] be separately itemized[~~shown~~] on the declarations page[~~of the policy, on renewal certificates~~] or billing instrument used by the insurer for newly issued policies and renewals subject to KRS 136.392.[~~subsequent billings, or both.~~]

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: October 12, 2018
FILED WITH LRC: October 15, 2018 at 9 a.m.
CONTACT PERSON: Patrick O'Connor II, Deputy Commissioner, Policy, 215 W. Main Street, Frankfort, Kentucky 40602, phone 502-564-6026, email patrick.oconnor@ky.gov.

PUBLIC PROTECTION CABINET
Department Of Insurance
(As Amended at ARRS, April 9, 2019)

806 KAR 5:011. Repeal of 806 KAR 5:010 and 806 KAR 5:020.

RELATES TO: KRS 304.5-130, 304.5-140, 304.5-150, 304.11-010 - 304.11-050, 304.24-420
STATUTORY AUTHORITY: KRS 304.2-110***, 304.2-210, 304.5-150, 304.5-155***
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the commissioner of the Department of Insurance to promulgate administrative regulations to aid in the effectuation of any provision of KRS Chapter 304. This administrative regulation repeals 806 KAR 5:010, ***Reinsurance treaties filing, which is no longer necessary due to the statutory authority to request all reinsurance treaties under KRS 304.5-150 and the broad authority to request all documents in the course of a financial examination under KRS 304.2-210; and 806 KAR 5:020, Illegitimate use of reinsurance agreements, which is no longer needed due to the stipulation within KRS 304.5-155 of the proper use of reinsurance agreements by authorized insurers.[~~and 806 KAR 5:020, which are outdated and no longer necessary due to the regulatory requirements included within recently amended KRS 304.5-140, 806 KAR 5:025, and the U.S. Department of Treasury's execution of a Covered Agreement on September 22, 2017 with the European Union establishing reinsurance requirements.~~]***

Section 1. The following administrative regulations are hereby repealed:
(1) 806 KAR 5:010, Reinsurance treaties filing; and
(2) 806 KAR 5:020, Illegitimate use of reinsurance agreements.

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: October 12, 2018
FILED WITH LRC: October 15, 2018 at 9 a.m.
CONTACT PERSON: Patrick O'Connor II, Deputy Commissioner, Policy, 215 W. Main Street, Frankfort, Kentucky 40602, phone 502-564-6026, email patrick.oconnor@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:001. Definitions.

RELATES TO: 810 KAR Chapter 2
STATUTORY AUTHORITY: KRS 230.215, 230.260(8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) ***authorizes[~~grants~~]*** the commission***[~~the authority~~]*** to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) ***authorizes[~~grants~~]*** the commission***[~~the authority~~]*** to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation defines the terms used in 810 KAR Chapter 2.

Section 1. Definitions.
(1) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.
(2) "Arrears" means***[~~all~~]*** sums due by a licensee as reflected by his or her account with the horsemen's bookkeeper, including subscriptions, jockey fees, driver fees, forfeitures, and any default incident to KAR Title 810.
(3) "Association" is defined by KRS 230.210***(5)[~~(1)~~]***.
(4) "Authorized agent" means in flat racing ***a[~~any~~]*** person currently licensed as an agent for a licensed owner, jockey, or

jockey apprentice by virtue of notarized appointment of agency filed with the commission.

(5) "Claiming race" means a race in which ownership of a horse participating in the race may be transferred in conformity with 811 KAR 4:050 and 810 KAR 5:030**.**

(6) "Closing" means the time published by the association after which entries for a race will not be accepted by the racing secretary.

(7) "Commission" means:

(a) The Kentucky Horse Racing Commission (formerly known as the Kentucky Horse Racing Authority and defined in KRS ***138.511(4)[~~230.210(2)~~]***) if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; ***or[~~and~~]***

(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.

(8) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(9) "Dash" means in standardbred racing a race in a single trial or in a series of two (2) or three (3) races governed by one (1) entry fee for the series, in which a horse starts in all dashes with positions drawn for each dash and the number of purse distributions or payouts awarded ***exceeds[~~does exceed~~]*** the number of starters in the dash.

(10) "Day" means ***a[~~any~~]*** twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(11) "Declaration" means:

(a) In flat racing, the withdrawal of a horse entered in a race prior to time of closing of entries for the race in conformance with ***KAR Title 810; or[~~Title 810 KAR~~]***.

(b) In standardbred racing, the naming of a particular horse as a starter in a particular race.

(12) "Disciplinary action" means action taken by the stewards or the commission for a violation of KRS Chapter 230 or KAR Title 810 and can include:

(a) Refusal to issue or renew a license;

(b) Revocation or suspension of a license;

(c) Imposition of probationary conditions on a license;

(d) Issuance of a written reprimand or admonishment;

(e) Imposition of fines or penalties;

(f) Denial of purse money; ***or***

(g) Forfeiture of purse money***[~~; or~~***

~~(h) Any combination of paragraphs (a) through (g) of this subsection.~~]

(13) "Disqualification" means a ruling of the stewards, judges, or the commission revising the order of finish of a race.

(14) "Draw" means the process of determining post positions by lot.***[~~.~~]***

(15) "Driver" means in standardbred racing a person who is licensed to drive a horse in a race.

(16) "Electronic eligibilty" means a computer-generated eligibility certificate that records a horse's racing statistics.

(17) "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(18) "Equipment" means in flat racing accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes **riding crop[~~whip~~]**, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(19) "Extended pari-mutuel meeting" means in standardbred racing a meeting or series of meetings, at which no agriculture fair is in progress, with an annual total of more than six (6) days duration and during which pari-mutuel wagering is permitted.

(20) "Field" or "mutuel field" means a single betting interest involving more than one (1) horse which is not a mutuel entry.

(21) "Foul" means ***an[~~any~~]*** action by ***a[~~any~~]*** jockey or driver that tends to hinder another jockey or ***a[~~any~~]*** horse in the proper running of the race.

(22) "Handicap" means in standardbred racing a race in which allowances are made according to a horse's:

(a) Age;

(b) Sex;

(c) Claiming price; or

(d) Performance.

(23) "Handicap race" means in flat racing a race in which the weights to be carried by the horses are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered in the race.

(24) "Handle" means the aggregate of all pari-mutuel pools, excluding refundable wagers.

(25) "Horse" means ***an[~~any~~]*** equine irrespective of age or sex designation and registered for racing with the applicable breed registry.

(26) "Ineligible" means a horse or person not qualified under KAR Title 810 or conditions of a race to participate in a specified racing activity.

(27) "Inquiry" means an investigation by the stewards or judges of a contest prior to declaring the result of the contest official.

(28) "Jockey" means a rider currently licensed to ride in races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(29) "Judge" means a duly appointed racing official with powers and duties specified in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(30) "Licensed premises" means the location and physical plant described in response to question R of the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in the following year. Licensed premises may also include real property of an association, if the association receives approval from the commission for a new location at which live racing will be conducted.

(31) "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(32) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing. A meeting shall begin at 10 a.m. of the first racing day and extend through a period ending one (1) hour after the last scheduled race of the last day.

(33) "Month" means calendar month.

(34) "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

(35) "Nominator" means the person in whose name a horse is entered for a stakes race.

(36) "Objection" means a verbal claim of foul in a race lodged by the horse's jockey, driver, trainer, or owner before the race is declared official.

(37) "Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards or judges.

(38) "Official time" means the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

(39) "Owner" means ***a[~~any~~]*** person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(40) "Pari-mutuel wagering", "mutuel wagering", or "pari-mutuel system of wagering"***[~~each~~]*** means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one or more designated wagering pools and the net pool is returned to the winning patrons.

(41) "Patron" means an individual present at a track or a simulcast facility who observes or wagers on a live or historical horse race.

(42) "Post" means the starting point of a race.

(43) "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(44) "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(45) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing

any act of an owner, trainer, driver, or official prohibited by rules, which, if true, would exclude that horse or driver from racing.

(46) "Prize" means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

(47) "Purse" means the gross cash portion of the prize for which a race is run.

(48) "Race" means a running contest between horses, ridden by jockeys or driven by drivers at a recognized meeting, during regular racing hours, for a prize.

(49) "Race day" means ***a[~~any~~]*** period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(50) "Racing official" means a racing commission member, commission staff as duties require, and all association racing department employees, as duties require.

(51) "Registration certificate" means the document, racing permit, or virtual certificate issued by the appropriate breed registry identifying the horse for racing.

(52) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pools.

(53) "Rulings" means***[~~all~~]*** determinations, decisions, or orders of the stewards***, judges,*** or of the commission duly issued in writing and posted.

(54) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with KAR Title 810.

(55) "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(56) "Simulcasting" is defined by KRS 230.210***(19)[~~(11)~~]***.

(57) "Starter" means***[~~either~~]***:

(a) An official who dispatches the horses from the starting gate; or

(b) A horse in a race when the starting gate doors open in front of it at the moment the starter dispatches the horses for the race.

(58) "Steward" means a duly appointed racing official with powers and duties specified in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(59) "Subscription" means nomination or entry of a horse in a stakes race.

(60) "Suspended" means withdrawal by the steward***, judge,*** or commission of racing privileges.

(61) "Thoroughbred racing" is defined by KRS 230.210***(21)[~~(3)~~]***.

(62) "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers, calculates the odds and prices of the wagers, and records, displays, and stores pari-mutuel wagering information.

(63) "Year" means twelve (12) consecutive months beginning with January and ending with December.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:010. Racing Commission and administrative staff.

RELATES TO: KRS 230.230, 230.240

STATUTORY AUTHORITY: KRS 230.240(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.240(1) authorizes the executive director of the commission to employ staff deemed by the executive director to be essential at or in connection with any horse race meeting and in the best interest of racing. ***This administrative regulation establishes the positions and duties of certain commission staff members [~~The function of this administrative regulation is to outline the positions and duties of certain commission staff members~~]***.

Section 1. Stewards and Judges. The commission shall employ:

(1) A chief state steward and presiding judge, responsible for overall supervision of***[~~all~~]*** commission matters pertaining to horse racing; and

(2) A state steward and state judge, responsible for***[~~all~~]*** commission matters at horse racing meetings to which he or she is assigned and for other duties as may be directed.

Section 2. Commission Licensing Administrator.

(1) The commission shall employ a person who shall be responsible for:

(a) Processing license applications of***[~~all~~]*** persons required to be licensed by 810 KAR 3:020; and

(b) Collecting licensing fees.

(2) The licensing administrator or his or her assistants shall:

(a) Be present on association grounds prior to the opening of a race meeting to accept license applications;

(b) Maintain an office on association grounds to accept license applications during the race meeting;

(c) File daily reports to the commission to include:

1. A list of license applications; and

2. An accounting of fees received:

(d) Forward***[~~all~~]*** fees to the commission; and

(e) Be responsible for photographing license applicants for whom same is required.

Section 3. Commission Director of Pari-mutuel Wagering.

(1) The commission shall employ or designate a supervisor who shall be responsible for:

(a) Verifying daily handle for live wagering, simulcast wagering, advance deposit wagering, and historical horse racing wagering;

(b) Reviewing advance deposit wagering and totalizator license applications;

(c) Overseeing wagering investigations;

(d) Testing totalizator services before each race meeting, and ensuring that totalizator standards are met;

(e) Reviewing requests for new pari-mutuel wagers;

(f) Submitting reports to the Department of Revenue summarizing wagering activities;

(g) Reviewing tax statements and totalizator reports for accuracy;

(h) Implementing pari-mutuel wagering policies and procedures; and

(i) Performing other duties related to pari-mutuel wagering as the commission or the executive director may assign.

(2) The commission director of pari-mutuel wagering or his or her representative shall have access to***[~~all~~]*** association books, records, and pari-mutuel equipment.

Section 4. Commission Veterinarian. The commission shall employ a veterinarian licensed in Kentucky and experienced in equine medicine and practice.

(1) The commission veterinarian shall:

(a) Advise the commission on matters related to equine health and the practice of veterinary medicine;

(b) Supervise and control the detention area;

(c) Direct and supervise the collection of samples for the testing of horses for prohibited medication;

(d) Inspect and record findings concerning racing soundness for ***[~~all~~]*** horses entered;

(e) Maintain and post on the commission website the veterinarian's list of horses that are ineligible to race because of sickness or unsoundness;

(f) Report***[~~any~~]*** observed cruel or inhumane treatment of

horses to the stewards;

(h) Be attendant on the stewards and the racing secretary at scratch time each day;

(i) Examine horses as racing officials may request;

(j) Make prompt reports to racing officials;

(k) Be present in the paddock for saddling;

(l) Inspect the horses for:

1. Physical fitness;

2. General conditions; and

3. Any unsoundness;

(m) Accompany each field to the starting gate;

(n) Observe***[all]*** horses after the finish of each field.

(2) The commission veterinarian shall have the authority to determine that:

(a) A horse has suffered an injury:

1. While in the paddock;

2. During the post parade; or

3. At the starting gate; and

(b) A horse is unfit to race. Upon such a determination, the commission veterinarian shall recommend to the stewards that the horse be excused and placed on the veterinarian's list.

(3) Upon the request of the stewards or judges, a horse requested to be scratched for physical reasons after scratch time shall be inspected by a commission veterinarian, who shall report the condition of the horse to the stewards or judges.

(4) Except as provided in 810 KAR 8:010, Section 6, the commission veterinarian shall not:

(a) Treat, prescribe, or sell any drug supplies for any horse registered to race at ***a[any]*** race track where ***the veterinarian[he or she]*** is employed, except in case of emergency;

(b) Buy or sell, for himself or another, ***a[any]*** horse under his or her supervision;

(c) Be employed by or receive any compensation whether directly or indirectly from any licensed owner or trainer;

(d) Wager on a race under his or her supervision;

(e) Sell ***Equine*** insurance; or

(f) Be licensed to participate in racing in any other capacity.

Section 5. Commission Director of Enforcement. The commission shall employ an investigator experienced in police work who shall:

(1) Maintain a current file on persons against whom rulings have been issued in racing jurisdictions and reported through the Association of Racing Commissioners International and the breed registry organization applicable to the horse. The file shall as necessary contain reports:

(a) Received from law enforcement agencies as to investigations, arrest records, and related information; and

(b) As to ejections or exclusions from association grounds in Kentucky and other racing jurisdictions;

(2) Investigate and ascertain the truth of statements made on license applications;

(3) Investigate possible infractions of racing rules at the request of the commission or stewards;

(4) Participate and cooperate with members of the track security, and state and local police on***[all]*** other investigations and conduct pertaining to racing in the Commonwealth;

(5) Investigate and perform background checks on any person on association grounds or any license applicant whose conduct or reputation reflects on the honesty and integrity of thoroughbred racing or interferes with the orderly conduct of thoroughbred racing; and

(6) Perform such other duties related to security and enforcement as the commission or the executive director may direct.

Section 6. Director of Incentives and Development. The commission shall employ a director of incentives and development who shall:

(1) Oversee the operation of statutory breeders' incentive and development funds; and

(2) Perform such other duties as the commission or the executive director may direct.

FRANKLIN S. KLING, JR., Chairman

K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:020. Thoroughbred and flat racing officials.

RELATES TO: KRS 230.215, 230.240, 230.260

STATUTORY AUTHORITY: KRS 230.215(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the commission to promulgate administrative regulations prescribing conditions under which all horse racing is conducted in the Commonwealth. This administrative regulation ***establishes[outlines]*** the qualifications, duties, powers***,*** and responsibilities of racing officials.

Section 1. Racing Officials.

(1) Racing officials at a thoroughbred or other flat race meeting shall include***[the following]***:

(a) Steward;

(b) Racing secretary;

(c) Assistant racing secretary;

(d) Clerk of scales;

(e) Paddock judge;

(f) Starter;

(g) Placing judge;

(h) Timer;

(i) Identifier;

(j) Veterinarian;

(k) Assistant starter;

(l) Jockey room custodian;

(m) Jockey room employee;

(n) Valet; and

(o) Outrider[steward, racing secretary, assistant racing secretary, clerk of scales, paddock judge, starter, placing judge, timer, identifier, veterinarian, assistant starter, jockey room custodian, jockey room employee, valet, and outrider].

(2) Persons appointed by the association to serve as racing officials during a race meeting shall***:***

(a) First be approved by the commission;

(b) Serve only so long as approved by the commission; and

(c) Be under the supervision of the stewards.[first be approved by the commission, shall serve only so long as approved by the commission, and shall be under the supervision of the stewards.]

(3) While serving as a racing official, a person shall not:

(a) Indirectly or directly, own a beneficial interest in:

1. A horse of the breed in which the person is engaged as a racing official; or

2. An association under his or her supervision;

(b) Cause to be bought or sold, for himself or another, ***a[any]*** horse under his or her supervision;

(c) Buy or sell, for himself or another, ***a[any]*** right to***, or contract with,[or in a contract with]*** a jockey or apprentice jockey under his or her supervision;

(d) Wager on ***a[any]*** race under his or her supervision;

(e) Write or solicit horse insurance; or

(f) Have ***a[any]*** monetary interest in ***a[any]*** business which seeks the patronage of horsemen or racing associations.

(4) A[(3) Any] racing official serving in the capacity of steward, placing judge, clerk of scales, starter, or horse identifier shall take and satisfactorily pass an optical examination within one (1) year

prior to the race meeting at which he or she serves. The examination shall show corrected twenty-twenty (20-20) vision and an ability to distinguish colors correctly.

(5) A[(4) Any] racing official who desires to leave his or her employment during the race meeting shall ***notify the stewards[first obtain permission from the commission]***; if a vacancy occurs among racing officials other than stewards, the association shall promptly appoint a successor, subject to approval of the commission. If the association does not appoint a successor in time to permit the orderly conduct of racing, then the stewards shall immediately appoint a temporary successor.

Section 2. Racing Secretary. The racing secretary shall be responsible for:

(1) The programming of races during the race meeting;

(2) Compiling and publishing condition books;

(3) Assigning weights for handicap races;

(4) Receiving***[all]*** entries, subscriptions, declarations, and scratches;

(5) Safekeeping of registration certificates and racing permits for horses, recording information required on the certificates and permits, and returning the certificates and permits to owners at the conclusion of the race meeting;

(6) Maintaining a record of***[all]*** stakes fees received, arrears, jockeys' fees, purchase money in claiming races, and***[all]*** other monies received incident to the race meeting, and making available payment to those persons entitled thereto within fourteen (14) days after the conclusion of the race meeting;

(7) Supervision of the horsemen's bookkeeper's handling of the "horseman's account";

(8) Daily posting of entries for the benefit of the public as soon as possible after entries have been closed and declarations have been made;

(9) Assigning stall applicants stabling as he or she may deem proper after consultation with the stewards, and maintaining a record of arrival and departure of all horses stabled on association grounds; and

(10) Publishing the official daily program, and ensuring that it contains accurate information of the following:

(a) Sequence of races to be run and post time for the first race;

(b) Purse, conditions, and distance for each race, and current track record for the distance;

(c) The full name of licensed owners of each horse, indicated as ***lessee[leased]*** if applicable, and description of racing colors to be carried;

(d) The full name of the trainer and the jockey named for each horse together with the weight to be carried;

(e) Notices that:

1.***[All]*** Jockeys will carry approximately three (3) pounds more than the published weight to account for safety helmets and safety vests that are not included in required weighing out procedures; and

2. Upon approval of the stewards, a jockey may be allowed up to three (3) pounds additional clothing and equipment for inclement weather or track conditions;

(f) The saddle cloth number or designation for each horse, and the post position for each horse, if there is a variance with the saddle cloth designation;

(g) Identification of each horse by name, color, sex, age, sire**,** and dam; and

(h) Other information as may be requested from time to time by the association or the commission including changes of equipment, use of permitted race day medications, and wagering types available.

Section 3. Clerk of Scales. The clerk of scales shall be responsible for:

(1) The security, regulation, and control of the jockeys' room, its equipment, and the determination of which personnel are permitted access;

(2) Weighing out ***a[every]*** jockey no later than fifteen (15) minutes prior to the race in which the jockey is scheduled to ride and recording all overweights, which shall immediately be posted and announced to the public before each race;

(3) Weighing in ***a[every]*** jockey immediately after the finish of each race in which ***the[a]*** jockey rode and promptly notifying the stewards whether ***a[any]*** jockey weighed in underweight;

(4) Safekeeping of all racing colors;

(5) Reporting all color changes or jockey changes from that listed in the official daily program and causing the changes to be posted and announced to the public before each race;

(6) Supervision of all valets and the issuance of numbered saddle cloths and equipment for each horse;

(7) Ensuring accuracy of the scales and periodic tests of them;

(8) Submitting to the racing secretary at the close of each racing day a statement of weight carried in each race by each jockey, noting overweight, if any; and

(9) Immediately transmitting all complaints, protests, objections, or disputes submitted to the clerk of scales to the stewards, and if the stewards are unavailable, to the commission.

Section 4. Paddock Judge. The paddock judge shall have general supervision of the paddock and shall be responsible for:

(1) Assembling the horses and jockeys in the paddock no later than fifteen (15) minutes before the scheduled post time for each race;

(2) Maintaining a written record of all equipment for each horse saddled, inspecting all the equipment, and reporting any changes in the equipment to the stewards;

(3) Inspecting the bandages of each horse. The paddock judge may order the bandages removed or replaced;

(4) Paddock schooling of***[all]*** horses approved for schooling by the stewards; and

(5) Ensuring that the saddling of***[all]*** horses is orderly, open to public view and free from interference, and ensuring that horses are mounted at the same time and leave the paddock for the post in proper sequence.

Section 5. Starter.

(1) The starter shall be responsible for the fair and equal start of ***[all]*** horses in a race at the scheduled starting time by means of a starting gate and bell, or other device activated by his signal.

(2) So far as practical, the starter shall cause***[all]*** horses to be loaded in order of post position, except the starter may in his discretion load an unruly or fractious horse out of order or may start the unruly or fractious horse on the outside of the starting gate and one (1) length behind the starting line. With permission of the stewards, a race may be started without a starting gate. The starter may employ as many assistant starters as needed and shall daily change the gate position of each assistant starter without notice to the assistant starters until the field for the first race comes upon the track.

(3) A horse shall not be permitted to start in a race unless approval is given by the starter. The starter shall maintain a schooling list that shall be posted in the racing secretary's office listing the names of***[all]*** horses ineligible to start due to inadequate training at leaving the gate. Horses shall be schooled under the supervision of the starter or his assistants.

(4) The starter shall:

(a) Have constant radio or telephone communication with the stewards from the time the horses leave the paddock until the field is sent away;

(b) Report to the stewards any disobedience of his orders or attempts to take unfair advantage at the starting gate and recommend penalties for offenders.

(5) An assistant starter shall not handle a horse until instructed to do so by the starter.

(6) A starter or assistant starter shall not:

(a) Accept ***a[any]*** gratuity or payment other than his regular salary, directly or indirectly, for services in starting a race;

(b) Wager on a race; or

(c) Strike ***a jockey*** or use abusive language to a jockey.

(7)[(6)] The starter shall maintain a written record showing the names of***[all]*** starters during the day and the names of the assistant starters who handled each horse. This record shall be made available to the stewards upon request.

Section 6. Placing Judges.

(1) Three (3) placing judges shall occupy a stand directly above the finish line during the running of each race. The placing judges shall:

(a) Take special note of racing colors and distinguishing equipment carried by each horse;

(b) Determine the order of the horses as they cross the finish line by consideration of the respective noses of the horses; and

(c) Cause the numbers of the first four (4) horses to cross the finish line to be posted on the result board. The numbers of additional horses shall be posted in their correct order of finish if necessitated by an exotic wager.

(2) A photo finish camera approved by the commission shall be used as an aid by the placing judges in determining the order of the horses as they cross the finish line. Placing judges may request a photo to assist in determining margins of less than a half-length.

Section 7. Timer.

(1) The timer shall occupy a stand directly above the finish line during the running of each race to record the official time.

(2) The timer shall:

(a) Record the fractional time of leading horses during each race and the final time of the first horse to cross the finish line; and

(b) Maintain a written record of fractional and final times of each race and have them available for inspection by the stewards or commission on request.

(3) The timer may use an electrical or mechanical timing device approved by the commission as an aid in determining the official time of each race.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:030. Chemical dependency.

RELATES TO: KRS 230.215, 230.260(1), 230.290(2), (3), 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(1), 230.320(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.260(1) vests the racing commission with jurisdiction and supervision over all horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the racing commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing or racing at horse race meetings. KRS 230.320(1) authorizes the commission to promulgate administrative regulations under which a license may be denied, suspended, or revoked. This administrative regulation prohibits licensees of the commission from abusing alcohol or engaging in illegal drug use or activity while performing their duties, provides for drug and alcohol testing, and establishes consequences for violations of this administrative regulation.

Section 1. Definitions.

(1) "Alcohol concentration" means***[either]*** grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) "Crimes involving drugs and drug paraphernalia" means***[all]*** activities involving drugs and drug paraphernalia ***that[which]*** are illegal under KRS Chapter 218A or other statutes or administrative regulations of this Commonwealth, and similar laws and regulations of other states and the United States, and which include the use of, possession of, or trafficking in marijuana, cocaine, or***[any]*** other controlled substances; possession or distribution of drug paraphernalia, or obtaining or using prescription drugs without a valid prescription.

(3) ***[**~~"Documentation" means proof of regular attendance at meetings, counseling sessions, clean drug test results (if suspended for a drug violation), and certification from the treatment program indicating full compliance with treatment and completion of the program.~~***

~~(4)~~] "Drug paraphernalia" is defined by KRS 218A.500(1).***[.]***

(4)[~~(5)~~] "Under the influence of intoxicants" means a person's mental or physical abilities are impaired by the presence of alcohol or other drugs in his body to the degree that the person is not able to safely and properly perform his job functions.

Section 2. Prohibited Activities. A licensee shall not:

(1) Be under the influence of intoxicants while:

(a) Engaged in the activities for which the license is held; or

(b) On association grounds;

(2) Commit ***a[~~any~~]*** crime involving drugs or drug paraphernalia;

(3) Fail to comply with substance abuse treatment required pursuant to an evaluation conducted under this administrative regulation;

(4) Tamper with a drug or alcohol test; or

(5) Refuse to submit to drug or alcohol testing upon request of the commission, a steward, a judge, or***[any]*** other authorized employee of the commission.

Section 3. Evidence of Violation. The following shall be presumptive evidence of a violation of this administrative regulation:

(1) While engaged in the activities for which the license is held, or while on association grounds:

(a) A breath, urine, or blood test result revealing an alcohol concentration of 0.05 percent or more;

(b) A positive result from a drug test for marijuana, cocaine, or other controlled substance for which the licensee does not have a current and valid prescription;

(c) A positive result for a prescribed medication for which the individual has a valid prescription, but the prescription for which indicates that taking the medication may impair vision, impair the ability to perform normal daily functions, or cause drowsiness, or the prescription for which advises using care when operating a car or machinery;

(d) A positive result indicating more than one (1) prescribed medication for which the individual has valid prescriptions, but the prescription directions for which advise against taking more than one (1) prescribed medication at a time; or

(e) A positive result that exceeds the allowable limit prescribed on the medication label; or

(2) While participating in a race as a racing official, or while mounted on a horse or stable pony or mounted in a sulky on association grounds, a breath, urine, or blood test result revealing an alcohol concentration greater than 0.00; or

(3) A conviction in ***a[~~any~~]*** court of law for a drug-related offense.

Section 4. Discipline.

(1) First offense.

(a) For a first time violation of this administrative regulation, the offender's license may be suspended for up to thirty (30) days.

(b) The offender may be required to undergo an evaluation by a professional in the field of addictive or substance abuse disorders approved by the commission.

(c) If the evaluator determines the existence of a substance abuse problem, the offender shall be required to comply with the recommended course of treatment.

(d) For a first time violation of this administrative regulation for an alcohol infraction or crime involving drugs and drug paraphernalia, the stewards or judges shall have the discretion to impose a lesser penalty and may excuse the offense for counting purposes under this administrative regulation.

(2) Second offense.

(a) For a second violation of this administrative regulation within a three (3) year period, the offender's license may be suspended for up to sixty (60) days.

(b) The offender shall be required to enroll in and complete a substance abuse program approved by the commission.

(3) Third offense. A third violation of this administrative regulation within a three (3) year period may result in the revocation of the offender's license.

(4) Zero tolerance offense. Conviction in ***a[any]*** court of law of a drug trafficking offense shall result in revocation of the offender's license even if it is a first offense under this administrative regulation.

(5) In determining the three (3) year period under this administrative regulation, the period shall be measured from the date on which the violation occurred. If the violation is a failure to complete recommended treatment, the violation date shall be calculated from the date of the first missed meeting, or session. For the purposes of subsections (2) and (3) of this section, violations occurring after the three (3) year period shall not be considered.

Section 5. Basis for Testing.

(1) In deciding whether drug tests should be administered, stewards or judges may require:

(a)***[All]*** Licensees to be tested on a particular day;

(b) Licensees on a particular day to be tested totally at random; or

(c) Those licensees that the stewards or judges ***have[has]*** a reasonable suspicion may be under the influence of intoxicants to submit to drug and alcohol testing.

(2) In determining whether there is reasonable suspicion to require testing, the stewards or judges may consider any of the following factors:

(a) Unexplained or continued violations of KRS Chapter 230 or KAR Title 810 ***that[which]*** have a detrimental effect on racing;

(b) Involvement in ***an[any]*** accident that causes injury to a person or animal at the track or ***a[any]*** near accident that creates a clear danger of accident or injury to a person or animal at the track;

(c) Willful conduct detrimental to horse racing as evidenced by continued violations of KRS Chapter 230 or KAR Title 810, other disciplinary problems, behavioral problems, disturbances, or other similar conduct at the track;

(d) Observable physical or emotional impairment at the track;

(e) Involvement in a race of questionable outcome or circumstance as determined by the stewards or judges;

(f) Willful abuse of an animal or person who is engaged in a race, work, or exercise at the track;

(g) Prior positive drug or alcohol test or tests in this or other jurisdictions, excluding those for which a valid legal prescription is provided;

(h) Performance of prescribed duties in a manner that indicates a best effort to win is not present at the track;

(i) Information supplied by:

1. A law enforcement agency;

2. The United States Trotting Association;

3. The Kentucky Horsemen's Association;

4. The Association ***of[or]*** Racing Commissioners International; or

5. The racing commission of any state or country;

(j) Any other conduct at the track that can be documented and provides reasonable grounds to suspect:

1. Dependence on, possession of, or usage of a controlled substance; or

2. An alcohol violation;

(k) Refusal to provide a urine or blood sample if requested to do so in accordance ***with*** KAR Title 810; or

(l) Recent arrest or pending criminal charges regarding the sale, possession, manufacture, cultivation, or use of illegal drugs.

Section 6. Payment of Expenses Related to this Administrative Regulation. A licensee shall be responsible for all or part of the expenses associated with violating this administrative regulation, including the cost of treatment and reinstatement of the license. The responsibility for payment of expenses shall be as follows:

(1) For a drug or alcohol test initiated by the commission to determine if a violation has occurred, the commission shall bear the cost unless the test reveals a violation. If the test reveals a violation:

(a) For a first offense, the offender's responsibility for costs shall be based upon consideration of the factors set forth in Section 5***(2)[(4)]***(a) through (l) of this administrative regulation, and determined by the stewards, judges, or other authorized commission employee; and

(b) For a second or later offense, the offender shall bear all costs.

(2) Failure to pay any costs imposed shall be grounds for denial of reinstatement.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:040. Stewards.

RELATES TO: KRS 230.215(2)

STATUTORY AUTHORITY: KRS 230.215(2), 230.240(1), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.240(1) authorizes the commission to prescribe by administrative regulation the required officials for horse racing and their official duties. KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing conditions under which all horse racing is conducted. This administrative regulation establishes the qualifications, duties, powers, and responsibilities of the stewards.

Section 1. Steward Qualifications. To qualify for employment or approval by the commission to serve as a steward, a person shall have:

(1)(a) Successfully completed an accreditation school or program approved by the commission; and

(b) Satisfactorily passed a written and oral examination given by the school or program;

(2) Served as a steward, racing secretary, assistant racing secretary, starter, placing judge, horse identifier, paddock judge, or clerk of scales, at one (1) or more recognized race meetings for a period of not less than sixty (60) racing days per year during at least three (3) of the five (5) preceding calendar years;

(3) Been an observer in the stewards stand for a period of at least thirty (30) days; and

(4) Satisfactorily passed an optical examination within one (1) year prior to approval as a steward evidencing corrected twenty-twenty (20-20) vision and ability to distinguish colors correctly.

Section 2. Steward Prohibitions. (1) No person shall serve as a steward until approved by the commission.

(2) No person under suspension or ejection by ***a[any]*** racing jurisdiction shall be employed or approved by the commission to serve as a steward.

(3) No person ***shall[may]*** serve as a steward unless the

commission is satisfied that income, other than salary as a steward, ***which[~~that~~]*** may accrue to a person under consideration for appointment as a steward is independent of and unrelated to patronage of or employment by ***a[~~any~~]*** licensee under the supervision of the steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of a licensee.

Section 3. Employment of Stewards. (1) The commission shall employ and compensate two (2) of the three (3) stewards for each race meeting, including the chief steward.

(2) A racing association shall nominate one (1) of the three (3) stewards for each race meeting for approval by the commission and shall be responsible for that person's compensation as a steward.

(a) The association nomination for steward shall be submitted when an association applies for a license if possible, but in no event later than thirty (30) days before commencement of a race meeting, and shall be accompanied by biographical data describing the experience and qualifications of the nominee.

(b) The association shall submit successive nominees until one (1) person is approved by the commission as qualified to serve as a steward.

(3) Stewards shall serve from one (1) minute after midnight on the day before the first racing day until one (1) minute before midnight on the day after the last racing day of the race meeting for which they are employed. If a dispute or controversy arises during a race meeting ***and[~~that~~]*** is not settled at the conclusion of the race meeting***[~~, then~~]*** the matter shall be adjudicated by the stewards at a successive race meeting in Kentucky, or until the matter is referred or appealed to the commission.

(4) Stewards shall be responsible only to the commission and may be replaced by the commission at any time for failure to perform their duties to the satisfaction of the commission.

(5) If a steward becomes ill, resigns, or is unable to serve for any reason, the remaining stewards shall nominate a successor or temporary steward to the commission for approval. In emergencies, a single member of the commission by telephone may approve employment of a successor steward.

Section 4. General Powers of Stewards. The stewards shall exercise immediate supervision, control, and regulation of racing at each licensed race meeting on behalf of and responsible only to the commission. The powers of the stewards shall include:

(1) Authority over***[~~all~~]*** horses and***[~~all~~]*** persons, licensed or unlicensed, on association grounds and at locations under the jurisdiction of the commission during a race meeting as to***[~~all~~]*** matters relating to racing;

(2) Determining***[~~all~~]*** questions, disputes, protests, complaints, or objections concerning racing ***that[~~which~~]*** arise during a race meeting and enforcing the determinations;

(3) Suspending the license of a participant in racing or denying licensed or unlicensed persons access to association grounds or locations under the jurisdiction of the commission, upon reasonable belief that a violation of KAR Title 810 has or is about to occur;

(4) Interpreting and enforcing Chapter 230 of the Kentucky Revised Statutes and Title 810 of the Kentucky Administrative Register and determining***[~~all~~]*** questions pertaining to a racing matter not specifically covered by these administrative regulations;

(5) Issuing decisions or rulings pertaining to racing ***that[~~which~~]*** shall supersede orders of the officers, directors, and officials of the association and which shall, if the stewards deem proper, vary any arrangement for the conduct of a race meeting, to include postponing or canceling a race, or ruling a race run as "no contest";

(6) Requesting assistance from commission employees, racing officials, members of the Thoroughbred Racing Protective Bureau, track security police, or state or local police, in the investigation of possible rule infractions;

(7) Conducting hearings on***[~~all~~]*** questions, disputes, protests, complaints, or objections concerning racing matters;

(8) Selecting a substitute, if a regularly named rider or racing official other than a steward is unable for any reason to perform. Upon suspicion of fraud or misconduct, the stewards may excuse a horse or replace ***a[~~any~~]*** rider or racing official other than a steward; and

(9) All other powers and duties established for stewards in ***KAR*** Title 810***[~~KAR~~]***.

Section 5. Duties and Responsibilities of Stewards. In addition to the duties and responsibilities necessary and pertinent to general supervision, control, and regulation of race meetings, and without limiting the authority of the stewards to perform these and other duties enumerated in ***KAR Title 810[~~these administrative regulations~~]***, the stewards shall have the following specific duties and responsibilities:

(1) To take appropriate action on***[~~all~~]*** misconduct or administrative regulation infractions, to cause investigations to be made of***[~~all~~]*** instances of possible infractions, and to take appropriate action to prevent an administrative regulation infraction;

(2) To have at least one (1) steward on association grounds from scratch time***,*** or if not a racing day, when entries are first taken until entries are closed. At least two (2) stewards shall be present for the scheduled viewing of race replays. All three (3) stewards shall be on association grounds no less than ninety (90) minutes before post time until conclusion of the last race. All three (3) stewards shall be present in the stewards' stand during the running of each race;

(3) To have at least one (1) steward, or a designated representative of the stewards, present in the paddock at least twenty (20) minutes before each race***[~~. The steward may remain there until the horses leave for the starting gate, to observe the conduct of all persons in and around the paddock and inspect, with the paddock judge and commission veterinarian, all horses for fitness~~]***;

(4) To inspect applications for licenses to participate in racing, and administer, or cause to be administered by technically qualified persons, standard examinations to***[~~all~~]*** first-time applicants for a trainer, jockey, apprentice jockey, veterinarian, dental technician, or farrier license, and make recommendations to the commission as to the qualifications of***[~~all~~]*** applicants for licenses to participate in racing;

(5)(a) To review licenses and registration certificates, and contracts, papers, and other documents pertaining to the sale or ownership of a horse, payment of purse money, jockey and apprentice jockey contracts, appointments of agents, and adoptions of racing colors or stable name; and

(b) To determine the eligibility and appropriateness for participation in racing under supervision of the stewards;

(6) To call for proof of eligibility of a horse or person to participate in a race, if eligibility is in question***,*** and in absence of sufficient proof to establish eligibility, the stewards may rule that horse or person ineligible;

(7) To review stall applications and advise the association of undesirable persons, if any, among owners and trainers applying for stalls and provide the association with information pertaining to the undesirable persons;

(8) To supervise the taking of entries and receive***[~~all~~]*** declarations and scratches and determine***[~~all~~]*** questions arising and pertaining to declarations and scratches. The stewards may in their discretion refuse the entry of ***a[~~any~~]*** horse by any person, refuse to permit a declaration or scratch, or may limit entries;

(9) To lock***[~~all~~]*** pari-mutuel betting machines not later than the moment the starting gate is opened for the commencement of a race, to cause the "inquiry" sign to be posted immediately after the horses have crossed the finish line in a race if any doubt is held by ***a[~~any~~]*** steward or***[~~any~~]*** other racing official as to the fairness of the running of that race, to cause the objection sign to be posted upon the lodging of an objection, and to cause the "official" sign to be posted after determining the official order of finish for purposes of pari-mutuel payoff;

(10) To draw up a list of riders***,*** including all apprentice jockeys***,*** ***to[~~whom the stewards feel should~~]*** review the race replays for instructional purposes and post that list in the jockey's room;

(11) To maintain a daily Stewards Report recording***[~~all~~]*** actions taken by the stewards on***[~~all~~]*** controversies that arise during the

day. The report shall show name of track, date, weather, track condition, claims, rulings issued, and***[any]*** other circumstance or condition regarded as unusual. The reports shall be signed by all three (3) stewards and filed with the commission;

(12) To make periodic inspections of the barn area***.[and]*** check track security***.[and to]*** make occasional ***and[,]*** informal visits to the jockeys' room***.[and]*** observe weighing out***.*** and check security. Inspections and observations made pursuant to this section shall be noted in the stewards' report;

(13) To maintain a written record of***[all]*** questions, disputes, protests, complaints, or objections brought to the attention of the stewards, and which, at the discretion of the stewards, warrant investigation and the creation of a written record. The record shall be available to the commission for inspection at all times; and

(14) If deemed necessary, after the conclusion of a race meeting, to submit to the commission a written report setting out the condition of the meeting and association grounds, and any recommendations for improvement.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:050. Judges and Standardbred Racing Officials.

RELATES TO: KRS 230.215(2), 230.240(1), 230.260(1), 230.290, 230.310

STATUTORY AUTHORITY: KRS 230.215(2), 230.240(1), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.240(1) authorizes the commission to prescribe by administrative regulation the required officials for horse racing and their official duties. KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing conditions under which all horse racing is conducted. This administrative regulation sets forth the required officials and describes their functions and duties.

Section 1. Racing Officials.

(1) Officials at a race meeting shall include the following:

(a) Presiding judge;

(b) Two (2) associate judges;

(c) Racing secretary;

(d) Paddock judge;

(e) Horse identifier;

(f) Clerk of the course;

(g) Official starter;

(h) Official charter;

(i) Official timer;

(j) Photo finish technician;

(k) Patrol judge;

(l) Program director;

(m) Official commission veterinarian; and

(n) Any other person designated by the commission who is necessary to effectively conduct the race meeting.

(2) At a matinee or county fair, there shall be at least one (1) judge approved by the commission in the judges' stand. At ***a[any]*** meeting at which races are charted, the association shall provide both a licensed charter and a licensed clerk of the course.

Section 2. Employment of Judges.

(1)The commission shall employ and compensate two (2) of the three (3) judges for each race meeting, including the presiding judge.

(2) A racing association shall nominate one (1) of the three (3) judges for each race meeting for approval by the commission and shall be responsible for that person's compensation as a judge.

(a) The name of the association nominee shall be submitted when an association applies for a license if possible, but in no event later than thirty (30) days before commencement of a race meeting, and shall be accompanied by biographical data describing the experience and qualifications of the nominee.

(b) The association shall submit successive nominees until one (1) person is approved by the commission as qualified to serve as a judge.

Section 3. Judge Qualifications. To qualify for employment or approval by the commission as a judge, a person shall have:

(1)[(a)] Attended an accreditation school or program approved by the commission;

(2)[(b)] Satisfactorily passed a written and oral examination given by the school or program; and

(3)[(c)] Possess the requisite knowledge of the duties expected of the position and the rules of harness racing.

Section 4. Judge Prohibitions.***[(1)]*** No person shall serve as a judge:

(1)[(a)] Until approved by the commission; or

(2)[(b)] While under suspension or ejection by the United States Trotting Association, Standardbred Canada, or any racing jurisdiction.

Section 5. An association shall submit to the commission, at least thirty (30) days prior to the opening of a race meeting, a written list of racing officials and applicable employees.

Section 6. Officials at Extended Meetings.

(1) The officials listed in Section 1(1) of this administrative regulation shall not serve at an extended pari-mutuel meeting without a valid commission license.

(2) A person shall not be employed for more than one (1) official race position at a meeting unless specifically approved by the commission.

(3) The commission shall employ or approve***[all]*** officials listed in Section 1(1) of this administrative regulation prior to each harness racing meeting, based on standard qualifications for racing officials.

(4) A refusal to grant a license to a person may be reviewed by the commission in accordance with 810 KAR 3:050.

Section 7. Prohibited Practices. A racing official, his or her assistants, or other employee in the racing secretary's office shall not engage in the following activities while serving in an official capacity at a race meeting:

(1) Have an ownership interest in ***a[any]*** horse that is racing at the meeting;

(2) Participate in the sale or purchase of ***a[any]*** horse that is racing at the meeting;

(3) Sell or solicit horse insurance on ***a[any]*** horse racing at the meeting;

(4) Be licensed in any other capacity without permission of the commission;

(5) Directly or indirectly wager on the outcome of ***a[any]*** live race which the person is officiating; or

(6) Refuse to submit to a breath, blood, or urine test if directed to do so by the commission or its designee.

Section 8. Location of Judge's Stand.

(1) The judge's stand shall be located and constructed so as to afford an unobstructed view of the entire track.

(2) Anything that might obscure or otherwise impede an official's vision of any portion of a track during a race shall not be permitted on the track.

Section 9. Judge's Stand Occupants. From fifteen (15) minutes before the first race until ten (10) minutes after the last race, the

occupants of the judge's stand shall be limited to:
(1) Judges;
(2) Clerk of the course;
(3) Secretary;
(4) Starter;
(5) Timers;
(6) Official announcer;
(7) Runner who posts the photo finish;
(8) Officials of the commission; and
(9) Other persons specifically authorized by the presiding judge.

Section 10. Appointment of Substitute Officials. If a vacancy exists among the association racing officials, the association shall fill the vacancy immediately with a temporary appointment. The appointment shall be effective until the vacancy is filled in accordance with this administrative regulation. A temporary or emergency appointment shall be approved by the executive director of the commission or the presiding judge.

Section 11. Appointment of Substitute Judge. If a judge is absent at race time, the presiding judge shall appoint a substitute. If a substitute is appointed, the commission shall be notified immediately by the presiding judge.

Section 12. Presiding Judge. The presiding judge shall:
(1) Supervise the following persons:
(a) Associate judges;
(b) Patrol judges;
(c) Starters;
(d) Paddock judges;
(e) Photo finish judge;
(f) Clerk of the course;
(g) Timers;
(h) Charters;
(i) Racing secretary;
(j) Official announcer; and
(k) Other licensed personnel directly responsible for conducting the racing program;
(2) Promptly notify owners, trainers, drivers**,** and grooms of penalties imposed;
(3) Promptly submit a detailed written report to the commission of violations of the rules by an association, its officers, or race officials;
(4) Make other reports required by the commission;
(5) Sign each sheet of the judge's book, verifying the correctness of all information, and forward the sheets to the United States Trotting Association no later than the day following the contesting of the race; and
(6) Be responsible for the maintenance of the records of the meeting and for forwarding them to the commission.

Section 13. Authority and Procedure of Judges. A presiding judge shall:
(1) Levy fines and penalties, as provided by KRS Chapter 230 and 810 KAR Chapter 5 and 810 KAR Chapter 8;
(2) Determine questions of fact relating to the race;
(3) Decide any differences between parties to the race, or any contingent matter which arises, that are not otherwise provided for in this administrative regulation;
(4) Declare pools and bets "off" in cases of fraud;
(a) A decision regarding pools and bets shall be made by the presiding judge at the conclusion of the race, and prior to the result of the race being announced as official, based upon the:
1. Observation of the presiding judge; and
2. Facts determined upon immediate investigation.
(b) After the official placing at the conclusion of the heat or dash, a reversal or change of decision shall not affect the distribution of betting pools made on the official placing.
(c) If pools and bets are declared "off" for fraud, the party who commits the fraud shall be charged pursuant to Section 27(2) of this administrative regulation;
(5) Control the horses, drivers, and assistants by citing***[any]*** drivers or assistants who fail to obey their orders**,*[or]*** 810 KAR Chapter 5**,** or 810 KAR Chapter 8;
(6) Examine under oath ***a[any]*** party connected with a race regarding a wrong or complaint;
(7) Compel by written notice the appearance of a person whose testimony is necessary to the proper conduct of a hearing;
(8) Consider complaints of foul only from the patrol judges, owners, trainers, or drivers in the race;
(9) Make decisions in the public interest and in the best interest of racing that are required by extraordinary circumstances not covered by Title 810 KAR; and
(10) Declare a dash or heat "no contest" if the track is thrown into darkness during the progress of a race because of a failure of electricity or***[any]*** other unforeseen incident.

Section 14. Judges' Duties.
(1) (a) A presiding judge shall exclude from the race a horse that in the judge's opinion is improperly equipped, dangerous, or unfit to race, including a horse that is sick, weak, or extremely lame.
(b) A horse shall not race:
1. With a tube in its throat, or with the assistance of any other medical device, unless the approval of the presiding judge and the commission veterinarian are obtained prior to the race;
2. If it does not have unimpaired vision in at least (1) eye; or
3. If it is infected with Equine Infectious Anemia or is a carrier of that disease.
(2) A presiding judge shall investigate any:
(a) Apparent or possible interference, or other violation of 810 KAR 5:070, Section 1, whether or not a complaint has been made by a driver; or
(b) Act of cruelty to a race horse that is seen by, or reported to, him by any person during a meeting at which he officiates. If a judge finds that an act of cruelty has been committed, he shall charge the offender pursuant to Section 25(1) of this administrative regulation;
(3) The executive director of the commission, or the designated representative of the commission:
(a) Shall have the same authority as that conferred upon judges by the provisions of this section;
(b) May impose a penalty for an act of cruelty or neglect of a horse committed by any person, whether the act was performed on or off the premises of a race track; and
(c) Shall report any suspected criminal act to the appropriate law enforcement authorities.
(4)(a) A presiding judge shall conduct an investigation of an accident to determine its cause on the day of a race or immediately thereafter; and
(b) At the time of an accident the:
1. Inquiry sign shall be posted; and
2. The race shall not be declared official until the presiding judge has conferred with the patrol judge, if one (1) is present, and the starter.
(5) A presiding judge shall exhaust all means to safeguard the contestants and the public.

Section 15. An association shall not:
(1) Rescind or modify a fine imposed by a presiding judge;
(2) Review an order of suspension or expulsion; or
(3) Interfere with any official in the performance of his or her duties.

Section 16. Judges' Procedure. (1) The judges shall:
(a) Be in the stand:
1. Fifteen (15) minutes before the first race;
2. For ten (10) minutes after the last race; and
3. Whenever the horses are upon the track;
(b) Observe the preliminary warming up of horses and scoring, noting:
1. Behavior of horses;
2. Lameness;
3. Equipment;
4. Conduct of the drivers;

5. Changes in odds at pari-mutuel meetings;

6. Unusual incidents pertaining to horses or drivers participating in races; and

7.***[Any]*** Apparent or possible interference or other violation of 810 KAR 1:070, Section 1; and

(c) Designate one (1) of the judges to lock the pari-mutuel machines immediately upon the horse reaching the official starting point.

(2) The presiding judge shall:

(a) Approve the post time for each race;

(b) Call the horses at a time sufficient to preclude excessive delay after the completion of two (2) scores; and

(c) Be in communication with the starter from the time the starter picks up the horses until the finish of the race.

(3) A patrol judge or starter who witnesses a violation of KRS Chapter 230**,*[or]*** 810 KAR Chapter 5**,** or 810 KAR Chapter 8 shall immediately report the violation to the presiding judge.

(4) At least one (1) judge shall observe the drivers throughout the stretch, and specifically note:

(a) Changing course;

(b)***[Any]*** Driving offenses or instances of interference with a race;

(c) Improper use of whips;

(d) Breaks; and

(e) Failure to contest the race to the finish.

(5) Photo sign.

(a) The photo sign shall be displayed if:

1. The order of finish among the contending horses is less than a half-length; or

2. A contending horse is on a break at the finish.

(b) After the finish:

1. The photo shall be examined;

2. A decision shall be made;

3. The photo shall be checked by the presiding judge for accuracy; and

4. The photo shall be posted for public inspection after the race has been declared official.

(6) The judges shall decide the order of finish if:

(a) The photo finish camera suffers electrical or mechanical failure; or

(b) A distorted, deceptive, or otherwise inadequate picture is developed.

(7)(a) The judges shall cause a horse to be examined by the commission veterinarian if it falls or runs loose and uncontrolled:

1. During warm up;

2. Prior to the race; or

3. Going to the post.

(b) If the commission veterinarian determines that the horse is unfit, the presiding judge shall order the horse scratched.

(c) If the trainer believes his or her horse is unfit to race, the trainer shall so advise the judge. The judge shall then determine if the horse is unfit to race.

Section 17. Patrol Judges.

(1) At the discretion of the judges, patrol judges may be appointed by the association.

(2) Appointment of patrol judges shall require the approval of the presiding judge.

(3) Patrol judges shall be supervised by the presiding judge.

(4) Patrol judges shall observe activity on the race track in their area during the race program.

(5) Patrol judges shall immediately report to the presiding judge any fouls or improper conduct, including:

(a) Action on the track which could improperly affect the result of a race;

(b) A violation of KRS Chapter 230, 810 KAR Chapter 5, or 810 KAR Chapter8;

(c) A violation of the rules of decorum;

(d) The lameness or unfitness of a horse; or

(e) A lack of proper racing equipment.

(6) Patrol judges shall be in constant communication with the judges during the course of a race.

(7) Patrol judges shall attend hearings or inquiries on violations, if requested by the presiding judge, and testify under oath.

(8) If patrol judges have been appointed, results of a heat or dash shall not be announced until the reports of the patrol judges have been received.

Section 18. Starter.

(1) Subject to the approval of the commission, the starter shall be:

(a) Designated by the association; and

(b) Licensed as a starter by the commission.

(2) The starter shall be in the starting gate fifteen (15) minutes before the first race.

(3) The starter shall have control over the horses from the formation of the post parade until the word "go" is given.

(4) A starter may recommend disciplinary action to a presiding or associate judge.

(5) If requested by the judges, the starter may assist in placing the horses.

(6) A starter shall be licensed by the United States Trotting Association as a prerequisite to approval by the commission to serve as a starter.

Section 19. Clerk Duties; Clerk of the Course. The clerk of the course shall:

(1) Assist in drawing positions if requested by the judges;

(2) Keep the judge's book and record, containing:

(a)***[All]*** Horses entered without electronic eligibility certificates;

(b) Names of owners, drivers, and license numbers of drivers;

(c) The charter lines at pari-mutuel meetings;

(d) Money won by a horse at that track during that race meeting;

(e) Drawn or ruled out horses;

(f) The performance time of horses in minutes, seconds, and fifths of seconds; and

(g) Information related to the finish of the race, including the position of a horse in the race if it was charted;

(3) Verify the correctness of the judge's book, including race time, placing and money winnings, and reasons for disqualification, if any;

(4) Verify that the book is properly signed; and

(5) Upon request, assist judges in placing horses.

Section 20. Timers.

(1) If an electronic or electric timing device is used, the device shall be approved by the commission.

(2) Time shall be announced and recorded in fifths of seconds.

(3)(a) If an electronic or electric timing device is used, there shall be one (1) timer in the judge's or timer's stand.

(b) If an electronic or electric timing device is not used, there shall be three (3) timers in the judge's or timer's stand.

(4)(a) The timers shall be in the stand fifteen (15) minutes before the first heat or dash is to be contested.

(b) Timers shall start their watches when the first horse leaves the point from which the distance of the race is measured.

(c) The time of the leading horse at the ***one-quarter (1/4), one-half (1/2), and three-quarters (3/4) mile[quarter, half, three-quarters]***, and the finish shall be taken.

(d) If odd distances are raced, the fractions shall be noted accordingly.

Section 21. Paddock Judge.

(1) Under the direction and supervision of the presiding judge, the paddock judge shall be in complete charge of paddock activities as specified in 810 KAR 2:080, Section 8.

(2) The paddock judge shall be approved by the commission, pursuant to Section 6(3) of this administrative regulation.

(3) The paddock judge shall:

(a) Ensure that the fields are on the track for the post parade in accordance with the schedule provided by the presiding judge;

(b) Check for changes in equipment, broken or faulty equipment, head numbers, or saddle pads;

(c) Supervise paddock gate personnel; and

(d) Check in and check out horses and drivers. Check in and check out shall include the identification of all horses coming into the paddock, by the freeze brand, tattoo number, or other uniform or standardized means of identification approved by the commission.

(4) The paddock judge shall:

(a) Direct the activities of the paddock farrier;

(b) Immediately notify the presiding judge of***[any]*** circumstances that could change, delay, or otherwise affect the racing program;

(c) Report to the presiding judge any incident of cruelty to a horse that he or she observes or is aware of;

(d) Ensure that only properly authorized persons are permitted in the paddock;

(e) Notify the presiding judge of a change of racing equipment or shoes before the race;

(f) Inspect and supervise the maintenance of emergency equipment kept in the paddock; and

(g) Notify judges of***[any]*** trainers, drivers, or grooms who leave the paddock in an emergency.

Section 22. Identifier.

(1) An association shall employ an identifier, licensed by the commission and the United States Trotting Association, at an extended pari-mutuel meeting.

(2) The identifier shall:

(a) Check the identification of horses coming into the paddock, including the tattoo number, freeze brand or other commission-approved means of identification, color, and markings; and

(b) Be under the immediate supervision of the paddock judge, and the general supervision of the presiding judge.

(3)(a) The identifier shall immediately report to the paddock judge a discrepancy that is detected in the tattoo number or freeze brand, or other commission-approved means of identification, or the color or markings of a horse; and

(b) The paddock judge shall immediately notify the presiding judge of the discrepancy.

Section 23. Program Director.

(1) Subject to the approval of the commission an association conducting an extended pari-mutuel meeting shall designate a program director, pursuant to Section 6(3) of this administrative regulation.

(2) The program director shall be responsible for furnishing the public with complete and accurate past performance information as required by 810 KAR 5:010, Section 3.

(3) A person shall not act as a program director at an extended pari-mutuel meeting unless that person has secured a license from the United States Trotting Association.

Section 24. Licensed Charter.

(1) At an extended pari-mutuel meeting and a grand circuit meeting, a race shall be charted by a licensed charter hired by the track.

(2) The charter shall be subject to the approval of the commission, pursuant to Section 6(3) of this administrative regulation, and shall be licensed by the United States Trotting Association.

(3) The charter shall be responsible for providing a complete and accurate chart which shall include the following:

(a) The name of the horse;

(b) The name of the driver;

(c) Date and place of race;

(d) Size of track;

(e) Track condition and temperature;

(f) Type of race (trot or pace);

(g) Classification of race;

(h) Distance;

(i) The fractional times of the leading horse, including the race time;

(j) Post position, position at the ***one-quarter (1/4), one-half (1/2), and three-quarters (3/4) mile[quarter, half, three-quarters]***, head of the stretch with lengths behind the leader, and finish with lengths behind the leader;

(k) Official order of finish;

(l) Individual time of each horse;

(m) Closing dollar odds if applicable (with favorite designated by an asterisk);

(n) The standard symbols for breaks, park outs, and free legged pacers if applicable;

(o) The price for which the horse is entered to be claimed less allowances for age and sex if the race is a claiming race; and

(p) Notations of placings, disqualifications, and claimed horses.

(4) Horses who are more than twenty-five (25) lengths off the leader may be noted in charts as distanced ("dis").

Section 25.***[Any]*** Variance from commonly-accepted equipment shall be approved by the presiding judge.

Section 26. Duties of the Race Secretary. The race secretary of an association shall be licensed and approved by the commission, pursuant to Section 6(3) of this administrative regulation. The race secretary shall:

(1) Ensure that***[all]*** horses racing during the meet have electronic eligibility certificates;

(2) Be familiar with the age, class, and competitive ability of horses racing at the track;

(3) Classify and reclassify horses at the meet in accordance with the required conditions of the race;

(4) List horses in the categories for which they qualify, and ensure that the lists are current and properly displayed in the room in which the declaration box is located for examination by horsemen and others;

(5) Provide for the listing of horses in the daily program;

(6) Verify the information contained in entry blanks and declarations;

(7) Select the horses to start and also the eligible horses from the declarations in accordance with the conditions of the race; and

(8) Examine nominations and declarations in early closing events, late closing events, and stake events, to verify the eligibility of all declarations and nominations, and to compile lists for publication.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:060. Owners' authorized agents and jockey agents.

RELATES TO: KRS 230.215, 230.260

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) vests the Kentucky Horse Racing Commission with the authority to promulgate regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. ***This administrative regulation establishes[The function of this administrative regulation is to outline]*** the requirements for authorized owner and jockey agents.

Section 1. Agents Permitted. ***A[Any]*** licensed owner, jockey, or apprentice jockey may authorize another person as an agent to act on the licensee's behalf in***[all]*** matters pertaining to racing in

this state and transfer of horses on association grounds, provided the authorization is in writing and defines the powers, limits, and term of the agency.

Section 2. License Required. No person ***shall[~~may~~]*** act as agent on behalf of another licensee in a matter pertaining to racing in this state, or in the transfer of horses on association grounds, without a current license.

Section 3. Owners' Authorized Agents.

(1) If an authorized agent ***acts[~~is to act~~]*** on behalf of more than one (1) owner, a separate agent license shall be obtained by each owner.

(2) An owner seeking to act through an authorized agent shall submit a completed Authorized Agent License Application, KHRC 2-060-01. An application submitted by an owner for an authorized agent license shall be accompanied by the original written agency appointment, signed by the owner and notarized.

(3) If the agency appointment is other than one authorizing broad general powers and qualifies or limits powers of the agent to act on behalf of the principal***[~~in any way~~]***, then the license, if issued, shall indicate the limitation by the word "qualified" or "limited."

(4) No racing official shall permit ***an[~~any~~]*** authorized agent whose license indicates a qualified or limited agency to act as an authorized agent until the racing official has inspected a copy of the agency appointment and ascertains whether the act is empowered by agency.

(5) Unless precluded by specified limitations in the agency appointment, a licensed authorized agent may perform on behalf of the licensed owner***[~~all~~]*** acts related to racing in this state or transfer of horses on association grounds that could be performed by the principal had the principal been present. In executing ***a[~~any~~]*** document on behalf of the principal, an authorized agent shall clearly indicate he or she is acting as an authorized agent and shall specify the principal for whom he or she is acting. When an authorized agent enters a claim for the account of a principal for whom he or she is licensed as an authorized agent, the name of the licensed owner for whom the claim is being made and the name of the authorized agent shall appear on the claim slip.

Section 4. Jockey Agents.

(1) No jockey agent shall make engagements for more than two (2) riders. No rider ***shall[~~may~~]*** be represented by two (2) jockey agents at one (1) time.

(2) No person other than a licensed jockey agent ***shall[~~may~~]*** make riding engagements for a rider, except that a jockey not represented by an agent may make his own riding engagements. ***A[~~Any~~]*** person permitted to make a riding engagement for a rider shall maintain in his or her possession an engagement book and shall record all riding engagements made, which shall be subject to examination by the stewards at any time. No jockey agent ***shall[~~may~~]*** enter the jockey room, paddock, or racing strip during the hours of racing.

(3) ***A[~~Any~~]*** dispute arising from a conflict of claims for the services of a rider shall be determined by the stewards on the basis of written records submitted by the parties involved.

Section 4. Termination of Agency. An agency shall remain in effect until written notification of revocation from the principal is received by the commission. If a jockey agent is dismissed by his employer, or if a jockey agent discontinues making engagements for a rider, then the jockey agent shall immediately notify the stewards and turn over to the clerk of scales a list of any unfulfilled engagements the jockey agent may have made for the rider.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Authorized Agent License Application", KHRC 2-060-01 ***11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the KHRC Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:070. Thoroughbred and other flat racing associations.

RELATES TO: KRS 230.215(2), 230.260(8)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) ***authorize[~~require~~]*** the commission to promulgate administrative regulations establishing conditions governing horse racing. This administrative regulation establishes requirements for thoroughbred and other flat racing associations.

Section 1. Maintenance of Grounds, Facilities and Uniform Track.

(1) The grounds and facilities**,** of an association shall be maintained in a manner that provides for the:

(a) Comfort and safety of patrons, employees, and other persons whose business requires their attendance; and

(b) Health and safety of horses that are stabled, exercised, or entered to race at the association.

(2) The grounds and facilities of an association shall be:

(a) Neat and clean;

(b) Painted; and

(c) In good repair.

(3) An association shall have implements adequate to maintain a uniform track, weather conditions permitting.

Section 2. Results Boards, Totalizators Required. An association shall provide and maintain mechanically operated totalizators and electronic boards that show odds, results, and other race information in plain view of patrons.

Section 3. Starting Gate.

(1) An association shall provide and maintain a working starting gate on every day horses are permitted to exercise on its racing strip.

(2) An association shall have in attendance one (1) or more persons qualified to keep the starting gates in good working order whenever the gates are in use.

(3) An association shall provide for periodic inspections of the starting gates.

Section 4. Stabling.

(1) An association barn and stall shall be:

(a) Constructed of fire-resistant material;

(b) Clean, sanitary, and equipped for adequate drainage; and

(c) Maintained in good repair.

(2)(a) Prior to the opening of a race meeting, the commission shall submit to the racing secretary a list of locations of approved off-track stabling facilities from which horses shall be permitted to race.

(b) The locations shall be considered association grounds.

Section 5. Stands for Officials.

(1) An association shall provide and maintain stands commanding an uninterrupted view of the entire racing strip for

racing officials.

(2) The stands and their locations shall be approved by the commission.

(3) The floor of patrol judge stands shall be at least six (6) feet higher than the track rail.

Section 6. Distance Pole Markings.

(1) A thoroughbred or other flat racing association shall have:

(a) Red and white quarter poles;

(b) Green and white eighth poles; and

(c) Black and white 16th poles.

(2) Permanent markers shall be located at each standard Arabian, quarter horse, paint horse, and appaloosa distance as applicable. Distance pole markers and permanent markers shall be located where they can be seen clearly from the stewards' stand. Each post shall be identified by color as follows: 220 yds., white; 250 yds., blue; 300 yds., yellow; 330 yds., green; 350 yds., red; 400 yds., black; 440 yds., orange; 550 yds., blue and white stripe; 660 yds., yellow and white stripes; 770 yds., green and white stripes; and 870 yds., red and white stripes. In addition, for appaloosa races, markers shall be located at six (6) and six and one-half (6 1/2) furlongs to be painted yellow and white and orange and white, respectively.

Section 7. Lighting.

(1) An association shall provide and maintain flood lights that provide adequate illumination in the stable area and parking area.

(2) If an association conducts night racing, it shall provide adequate track lighting.

Section 8. Facilities for Stable Employees.

(1) An association shall provide and maintain in good repair adequate living quarters and conveniently located sanitary facilities that shall include showers, toilets, and wash basins for stable employees.

(2) Personnel shall not be permitted to sleep in a stall or barn loft.

Section 9. Facilities for Jockeys.

(1) An association shall provide and maintain adequate facilities for jockeys scheduled to ride each day.

(2) The facilities shall include accommodations for rest and recreation of jockeys on racing days, showers, toilets, wash basins, mirrors, arrangements for safekeeping of apparel and personal effects, and snack bar.

Section 10. Facilities for Commission.

(1) An association shall provide adequate office space for the commission on its grounds.

(2) To assist in the conduct of official business, an association shall provide the following to the commission:

(a) A season box, marked "Kentucky Horse Racing Commission", of six (6) to eight (8) seats; and

(b) A number of parking places sufficient for the commission and commission staff.

(3) An association shall honor for access to preferred parking facilities and other areas on its grounds a commission or Association of Racing Commissioners International ring, lapel button, or automobile emblem.

Section 11. Sanitary Facilities for Patrons. An association shall, on every racing day, provide sanitary toilets and wash rooms, and free drinking water adequate for the number of patrons and persons having business at the association that comply with applicable statutes, administrative regulations, codes, or ordinances.

Section 12. Manure Removal.

(1) An association shall provide and maintain manure pits of the size and construction adequate to handle refuse from stalls.

(2) The contents of the manure pits shall be removed from the stable area as promptly as is possible.

Section 13. Photo Finish Cameras.

(1) An association shall provide and maintain at the finish line two (2) photo finish cameras for photographing the finish of races.

(2) One (1) of the photo finish cameras shall be held in reserve. The photo finish photographer shall promptly furnish to the stewards and placing judges the number of prints of finishes requested.

(3) An association shall maintain a one (1) year file of all photo finishes.

Section 14. Race Replays.

(1) During a race meeting, an association shall provide and maintain personnel and equipment necessary to record and produce race replays that clearly record each race from start to finish.

(2) Projection or viewing equipment shall be adequate to permit simultaneous showing of head-on and side-angle views of the running of each race.

(3) (a) A race replay shall be:

1. Retained and secured by an association for at least one (1) year; and

2. Made available to the commission and stewards upon demand.

(b) Upon order of the stewards, a visual record of a race that has raised a question, dispute, or controversy shall be filed with the commission.

(4) Race replays shall be made available:

(a) For viewing at the track by licensees who owned, trained, or rode a horse in the race requested to be viewed; and

(b) To members of the press.

Section 15. Ambulances.

(1) An association shall provide and maintain at least one (1) human ambulance and one (1) horse-ambulance whenever horses are permitted to exercise or race.

(2) An ambulance shall be:

(a) Equipped;

(b) Manned;

(c) Ready for immediate duty; and

(d) Located at an entrance to the racing strip.

Section 16. (1) Except as provided by subsection (2) of this section, an association shall equip and maintain a first aid facility that is:

(a) Equipped with at least two (2) beds; and

(b) Attended by a licensed physician and registered nurse during race hours.

(2) An association shall not be required to maintain a first aid facility, if the association has an ambulance on standby on its premises during racing hours which:

(a) Can transport an injured individual to a fully-equipped hospital emergency room in five minutes or less; and***[;]***

(b) Is manned by a certified paramedic and certified emergency medical technician.

(3) A paramedic provided pursuant to subsection (2) of this section shall be equipped with:

(a) Heart monitor and defibrillator;

(b) Cellular phone; and

(c) Airways intubation equipment.

Section 17. Track Kitchen. An association shall provide a track kitchen within the stable area, maintained in a clean and sanitary manner that complies with applicable statutes, administrative regulations, codes, or ordinances, at all times horses are stabled on association grounds.

Section 18. Communication System. An association shall install and maintain in good working service a communication system between the stewards' stand and:

(1) Outriders;

(2) Pari-mutuel department;

(3) Starting gate;

(4) Public address announcer; and

(5) Clerk of the scales.

Section 19. Fire Prevention.

(1) An association shall have a fire prevention and suppression program.

(2) The commission shall not approve the commencement of a race meeting unless, within fifteen (15) days before commencement of the race meeting, the state or local fire marshal:

(a) Has inspected the association; and

(b) Certified that the association plant and stable area meets fire safety requirements.

(3) An association shall maintain a firefighting unit of trained personnel that has high-expansion foam fire extinguishers and other equipment required by the local fire inspection authority.

(4) An association shall prohibit:

(a) Smoking in stalls, under shed rows, and in feed rooms;

(b) Open fires and oil or gas lamps in the stable area; and

(c) Locking of stalls occupied by horses.

Section 20. Association Security.

(1) An association shall provide and maintain security services, night and day, ***on[~~in~~]*** and about association grounds.

(2) An association shall furnish to the stewards a report on any disturbances or disorderly conduct committed by a person on association grounds.

(3) An association shall exclude from association grounds a person designated to be denied access by order of the commission or stewards.

(4) An association shall implement security measures to protect a horse on association grounds from being injured by being frightened or tampered with.

(5) An association shall exclude from the paddock area, race strip, and winner's entrance a person who:

(a) Does not have an immediate connection with the horses entered; and

(b) Is not a commission member, racing official, or accredited member of the news media.

Section 21. Vendors and Suppliers.

(1) A vendor shall comply with procedures and requirements established by an association.

(2) An association shall not attempt to control or monopolize sales to owners, trainers, or stable employees.

(3) An association shall not grant an exclusive concession to a vendor of feed, racing supplies, or racing services.

(4) A vendor of horse feeds or medications shall file with the commission veterinarian a list of products ***that[~~which~~]*** he or she proposes to sell, including a new preparation or medication.

(5) An association shall not permit the sale of an alcoholic beverage except beer within the stable area.

Section 22. Ejection or Exclusion From Association Grounds.

(1) An association shall for probable cause eject or exclude from association grounds a person:

(a) Believed to be engaged in:

1. A bookmaking activity;

2. Solicitation of bets; or

3. Touting;

(b) Who as a business or for compensation, either directly or indirectly:

1. Accepted anything of value to be wagered, transmitted, or delivered for wager to a pari-mutuel wagering enterprise; or

2. Participated in the transaction; or

(c) Who attempted to use tax exempt admissions credentials not issued to him by the association.

(2) An association shall eject or exclude from its stable area a person who is not:

(a) Licensed to conduct an activity that requires his presence in the stable area;

(b) An accredited member of the news media;

(c) A guest of a licensed owner or trainer accompanied by the owner or trainer; or

(d) Accompanied by, and under the control and supervision of a:

1. Racing official;

2. Association security guard; or

3. Association public relations department representative.

(3)(a) A report of an ejection or exclusion from association grounds***[~~for any reason~~]*** shall be made immediately to the stewards, judges, and commission director of security.

(b) A report shall state the:

1. Name of person ejected or excluded;

2. Reasons for the ejection or exclusion; and

3. Facts relating to the ejection or exclusion.

Section 23. Ownership of Associations. An association shall file with the commission a revised list of persons whose identity is required by 810 KAR 3:010 immediately upon transfer of a beneficial interest or control in the association.

Section 24. Plan of Association Grounds.

(1) An association shall file with the commission maps and plans of association grounds, showing:

(a) Structures;

(b) Piping;

(c) Fire hydrants;

(d) Fixed equipment;

(e) Racing strip, noting elevation as filled, drained, and gapped; and

(f) Composition of track base and cushion.

(2) An association shall file revised maps or plans of association grounds upon any material change.

Section 25. Attendance and Badge List Reports; Tax Exempt Credentials.

(1) An association shall file with the commission a copy of the form required by KRS 137.180 and 138.480, "Race Track Pari-mutuel and Admissions Report," Revenue Form 73A100.

(2) A tax exempt admission credential shall not be transferable.

Section 26. Financial Report. Within sixty (60) days after the close of its fiscal year, an association shall file:

(1) Three (3) copies of its balance sheet; and

(2) A comparison to the prior year.

Section 27. Horseman's Account and Horseman's Bookkeeper.

(1) An association shall maintain a bank account that shall:

(a) Be separate from its other accounts;

(b) Be titled "horsemen's account"; and

(c) Contain sufficient funds to pay money owing to horsemen for:

1. Purses;

2. Stakes;

3. Rewards;

4. Claims; and

5. Deposits.

(2) Withdrawals from the horsemen's account shall be subject to audit by the commission at any time.

(3)(a) For all races, purse money shall be available to earners after the result of the race in which the money was earned has been declared official***[;~~,~~]*** and:

1. For race dates where all samples are reported by the commission laboratory as passed at the screening level, within twenty-four (24) hours after receipt of the report by the commission; or

2. For race dates where one (1) or more sample is reported by the commission laboratory as suspicious at the screening level, within twenty-four (24) hours after receipt of the final report by the commission.

(b) If a horse is disqualified and an appeal has been filed, purse money shall be available to other participants entitled to purse money in the amount they would have earned had a horse not been disqualified. The purse money to which the disqualified participant would be entitled shall be held in escrow by the association until final adjudication of a dispute over which persons are entitled to money.

(4)(a) Except for jockey fees, a deduction from purse money shall not be made, unless the deduction has been requested in

writing by the:

1. Person to whom purse money is payable; or

2. Authorized representative of the person to whom purse money is payable.

(b) Whether or not a deduction request is made, at the close of a race meeting, the horsemen's bookkeeper in charge of the horsemen's account shall mail to an owner a duplicate of each record of a deposit, withdrawal, or transfer of funds that affects his racing account.

(5) The horsemen's bookkeeper in charge of the horsemen's account shall be bonded.

Section 28. Outriders.

(1) An association shall employ at least two (2) outriders.

(2) An outrider shall:

(a) Escort starters to the post;***[and]***

(b) Assist in the returning of***[all]*** horses to the unsaddling area;***[.]***

(c) Only lead a horse that has demonstrated unruliness; and

(d) Assist in the control of a horse that might cause injury to a jockey or others.

(3) Whenever horses are permitted on the racing strip for exercising or racing, an outrider shall be:

(a) Present on the racing strip;

(b) Mounted; and

(c) Ready to assist in the:

1. Control of an unruly horse; or

2. Recapture of a loose horse.

Section 29. Safety Equipment.

(1) A person mounted on a horse or stable pony at a location under the jurisdiction of the commission shall wear a properly secured safety helmet at all times. If requested by a commission official, the person shall provide sufficient evidence that his helmet has a tag, stamp, or similar identifying marker indicating that it meets one of the following safety standards:

(a) ASTM International Standard, ASTM F1163-04a;

(b) British Standards, BS EN 1384:1997 or PAS 015:1999; or

(c) Australian/New Zealand Standard, AS/NZS 3838:2006.

(2) ***A[Any]*** person mounted on a horse or stable pony on ***a[any]*** location under the jurisdiction of the commission,***[all]*** assistant starters, and ***a[any]*** person handling a horse in a starting gate shall wear a safety vest at all times. If requested by a commission official, the person shall provide sufficient evidence that his safety vest has a tag, stamp, or similar identifying marker indicating that it meets or exceeds one (1) of the following safety standards:

(a) British Equestrian Trade Association (BETA):2000 Level 1;

(b) Euro Norm (EN) 13158:2000 Level 1;

(c) ASTM International Standard, ASTM F2681-08;

(d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or

(e) Australian Racing Board (ARB) Standard 1.1998.

Section 30. Valets.

(1) An association shall employ a number of licensed valets sufficient to attend each rider on a day's racing program.

(2) A valet shall be under the immediate supervision and control of the clerk of scales.

(3) A rider shall not employ a valet or be attended by a person other than the valet assigned to him by the clerk of scales.

(4) A valet shall:

(a) Be responsible for the care and cleaning up of the apparel and equipment of his assigned rider;

(b) Ensure his rider has the proper equipment and colors for a race;

(c) Present the proper equipment and attend the saddling of his rider's mount; and

(d) Attend the weighing out of his rider.

(5) A valet or other jockey room attendant shall not place a wager, directly or indirectly, on races run while he serves as a valet for himself or another.

(6) An association shall provide uniform attire for all valets that shall be worn whenever they perform their duties within public view.

Section 31. Minimum Purse and Stakes Values.

(1) An association shall not program or run any race for which the purse is less than $2,000 in cash, without special permission of the commission.

(2) An association shall not program or run a stakes race for which the added value is less than $10,000 in cash added by the association to stakes fees paid by owners.

(3) The minimum cash amounts paid by the association shall be exclusive of:

(a) Nomination;

(b) Eligibility;

(c) Entrance;

(d) Starting fees;

(e) Cash awards;

(f) Premiums;

(g) Prizes; or

(h) Objects of value.

Section 32. Maximum Number of Races. An association shall not program or run more than nine (9) races on a racing day without permission of the commission.

Section 33. Two (2) Year Old Races. Beginning on March 1 of each year, an association shall program in the conditions book at least four (4) two (2) year old races each week.

Section 34.(1)(a) Exculpatory clauses. Stall applications, entry forms, condition books, and other agreements between persons or entities licensed by the Kentucky Horse Racing Commission regarding the stabling of horses, the racing of horses, the training of horses**,** or other activities at tracks owned or operated by licensed associations, and conditions of racing established by licensed associations, shall not contain provisions ***that[which]*** absolve or hold harmless a licensee from liability, or limit the liability of a licensee, for loss, loss of use, injury**,** or damage caused or contributed to by the acts or omissions of any licensee**,***[or]* its agents**,** or employees, except for:

1. Ordinary negligence ***that[which]*** causes or contributes to loss, injury**,** or damage to horses while on the premises of a licensed association; and

2. Ordinary negligence ***that[which]*** causes or contributes to personal injury or property damage, including loss, loss of use, injury**,** or damage to horses arising from the use of grass fields or gallops owned or controlled by the licensed association.

(b) Subject to the exception in paragraph (a) of this subsection, ***[all]*** licensees participating in the stabling of horses, the racing of horses, the training of horses, and related activities at tracks owned or operated by licensed associations shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law. A licensee shall not attempt to limit liability of ***a[any]*** person or entity for gross negligence or intentional wrongdoing.

(2) Constructive notice to and consent of licensees.***[All]*** Persons licensed by the Kentucky Horse Racing Commission shall be deemed, as a condition of licensure, to have notice of and to have consented to exculpatory provisions, which comply with the limitations set forth in this administrative regulation, included in agreements between licensees and in conditions of racing established by a licensed association. Exculpatory provisions ***that[which]*** exceed the limitations set forth in this administrative regulation shall be void and unenforceable in their entirety.

(3) Model provision. The following provision shall be deemed to comply with the limitations set forth in this administrative regulation: All Kentucky Horse Racing Commission licensees, including but not limited to the host association, owners, trainers, jockeys, and grooms ("licensees"), participating in stabling, racing, training, and related activities at (name of licensed association) recognize that hazards and risks inherent in these activities may cause the injury or death of horses. Therefore, in consideration of participating in stabling, racing, training, and related activities at

(name of licensed association), all licensees assume the risks of, and release, hold harmless**,** and covenant not to sue ***other participating licensees[~~all other licensees so participating~~]*** for:

(a) Ordinary negligence ***that[~~which~~]*** causes or contributes to loss, loss of use, injury**,** or damage to horses while on the premises of (name of licensed association); and

(b) Ordinary negligence ***that[~~which~~]*** causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury, or damage to horses arising from the use of grass fields or gallops owned or controlled by (name of licensed association), whether arising from alleged acts or omissions of a licensee***,[~~and~~]*** its agents**,** or employees, the condition of the premises of (name of licensed association)**,** or any other cause. Except as provided above, all licensees participating in racing, training, and related activities at (name of licensed association) shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 2:080. Standardbred racing associations.

RELATES TO: KRS 230.215, 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to regulate horse racing in Kentucky. This administrative regulation establishes requirements for the operation of standardbred racing associations.

Section 1. During the course of its race meetings, a licensed standardbred association shall display in the racing association's office the license issued by the commission for the current year.

Section 2. Default in Payment of Purses. An association shall not default in the payment of any purse that has been offered in a race.

Section 3. Time to File Claims for Unpaid Purses. Unless a claim for an unpaid purse is filed with or appealed to the commission within twelve (12) months after the date the race is contested, the commission may release any performance bond it holds related to the purse.

Section 4. If at a meeting of a licensed association, a race is contested that has been promoted by another party, and the promoters default in the payment of the amount raced for, the same liability shall attach to the licensed association as if the race had been offered by the licensed association.

Section 5. Minimum Advertised Purse or Schedule of Purses. If an association advertises a minimum purse and conducts a race for less than the advertised minimum, the association shall be fined the difference between the advertised minimum and the lesser purse for which ***the[~~such~~]*** race was conducted, and the proceeds may be distributed among the money winning horses in proportion to their respective winnings.

Section 6. Removal of a Horse from the Grounds. A horse shall not be ordered off the grounds unless a minimum of twenty-four (24) hours' notice (excluding Sunday) is provided to the person in charge of the horse. A person shall not fail to remove a horse after proper notice.

Section 7. Driver Awards. An association shall not ***pay or advertise to pay an[~~advertise to pay or pay any~~]*** award other than to an owner, nominator, or breeder of a money-winning horse, except that an award may be made to a driver of a horse breaking or equaling an association or world record, or to a leading driver at a meeting.

Section 8. Paddock Rules.

(1) An association conducting an extended pari-mutuel meeting shall provide a paddock or receiving barn.

(2) The paddock or receiving barn shall be completely enclosed with a man-tight fence and each opening through the fence shall be policed by a person licensed by the commission who shall exclude unauthorized personnel. A daily record of***[~~all~~]*** persons entering or leaving the paddock from one (1) hour prior to the first post time until all races on that program have been completed shall be maintained on a form provided by the association and approved by the commission.

(3) A horse shall be in the paddock at the time prescribed by the presiding judge, but in any event at least one (1) hour prior to post time of the race in which the horse is to compete. Except for a warm up trip, a horse shall not leave the paddock until called to the post.

(4) A person entitled to admission to the paddock shall be at least sixteen (16) years old and shall include:

(a) An owner of a horse competing on the date of the race;

(b) A trainer of a horse competing on the date of the race;

(c) A driver of a horse competing on the date of the race;

(d) A groom and caretaker of a horse competing on the date of the race;

(e) An official whose duties require the presence of that person in the paddock or receiving barn;

(f) An official of the commission;

(g) The designated representative of the horseman; and

(h) A person approved by the presiding judge.

(5) Unless permission is granted by the judges, a driver, trainer, groom, or caretaker, once admitted to the paddock or receiving barn, shall not leave the paddock or receiving barn, other than to warm up a horse, until the race or races for which the horse was admitted is contested.

(6) All persons, except drivers in the driver's stand, shall leave the paddock as soon as that person's duties are completed for the race or races for which that person was admitted.

(7) A member of a registered stable, other than the driver, shall be entitled to admission to the paddock on any day a horse owned by that stable is racing.

(8) During racing hours, an association shall provide the services of a farrier within the paddock.

(9) During racing hours an association shall promptly provide suitable extra equipment as may be necessary.

Section 9. Photo Finish, Film Patrol, Head Numbers, Starting Gate.

(1) At an association where pari-mutuel wagering is allowed, a photo finish, film patrol, head numbers, saddle pads, and starting gate shall be used.

(2) At an extended pari-mutuel meeting, the association shall provide for a back-up starting gate.

(3) If the judges use a photo to determine the order of finish, the photo shall be posted for public inspection.

(4) Photo finish equipment shall include a stationary camera, mounted above the finish wire and perpendicular to the race track, along with a spinner or stationary target.

(5) A camera utilizing a shutter between the film and the race track during the actual finish of a race, or which has a field view greater than twelve (12) inches at the finish line, shall not be utilized. The presiding judge shall verify that the photo finish equipment is in working order prior to each racing program.

Section 10. Driver Insurance. An association shall prepare and

prominently display, in the race secretary's office, a statement containing the name of the company providing driver insurance coverage.

Section 11.(1)(a) An association at an extended pari-mutuel meeting shall be equipped with a scientifically-reliable breath, blood, or urine alcohol testing device approved by the commission and operated by a person certified to use ***the[~~such a~~]*** device. A licensee may be required to submit to a breath analyzer test at the discretion of the presiding judge or his assistant, based on the presiding judge's reasonable suspicion that the person might have an impermissible amount of alcohol or illegal substances in his system.

(b) A person shall not be permitted to drive:

1. If a breath, blood, or urine alcohol testing device reveals at the time of the person's entry into the paddock a reading of 0.05% or more of alcohol or any trace of illegal controlled substance either in the breath, blood, or urine of that individual; or

2. If, in the opinion of the presiding judge, a person is impaired to the point the person's driving skills or judgement may be affected.

(c) At the time of entry into the paddock, if a breath, blood, or urine alcohol testing device given to a person who is scheduled to drive reveals the presence of 0.05% or more of alcohol or any trace of an illegal controlled substance, the presiding judge shall charge the driver with a violation pursuant to Section 15(1) of this administrative regulation.

(2) A person shall not be permitted to act as a judge, starter, or marshal if a breath, blood, or urine alcohol testing device reveals a presence of 0.05% of alcohol or any trace of illegal controlled substance in the blood, urine, or breath of that individual at any time on a race day during which that person is schedule to officiate. If alcohol or illegal substances are found to be present, that individual shall be immediately relieved of duties for that program and a report shall be made prior to the next racing day to the commission for appropriate action. The individual shall be charged with a violation pursuant to Section 15(1) of this administrative regulation.

(3) In any meeting other than an extended pari-mutuel meeting, a driver, judge, starter, driver of the starting gate, and marshall shall submit to a breath, blood, or urine alcohol test if requested by the presiding judge. The result of the test shall be governed by subsection (2) of this section, and the individual shall be charged with a violation pursuant to Section 15(1) of this administrative regulation if the impermissible amount of alcohol or illegal substances are found to be present.

Section 12. A saddle pad in use at an association conducting an extended pari-mutuel meeting shall be standardized consistent with a format to be established by the United States Trotting Association.

Section 13. Horse Ambulance. During an extended pari-mutuel race meeting, an association shall provide a properly equipped and properly manned horse ambulance for the removal of injured or dead animals from the track. The horse ambulance shall be present on the grounds at any programmed race, time trial, or qualifying race under the jurisdiction of the commission. A horse ambulance shall be equipped with a screen for use if it is necessary to destroy an animal in view of the general public, and with a winch to lift dead or injured animals onto the ambulance. It shall be the responsibility of the commission to ensure that proper supplies of alcohol, water, euthanasia medication, and horse leg splints are aboard the ambulance.

Section 14. Emergency Medical and Ambulatory Services for Persons.

(1) At an association where any programmed race, time trial, or qualifying race under the jurisdiction of the commission takes place, it shall be the responsibility of the association to:

(a) Provide a licensed paramedic, emergency medical technician, or the equivalent; and

(b) Maintain in good operating order an ambulance or other suitable transportation, capable of transporting injured parties to an appropriate medical facility, available and stationed at an entrance to the racing surface allowing for visual contact with the race in progress.

(2) The medical personnel present shall make a prompt response if one (1) or more drivers or horses are involved in an accident or there is a need for emergency transportation.

(3) The ambulance shall be stationed at every programmed race, time trial, and qualifying race under the jurisdiction of the commission.

(4) The emergency medical personnel and the ambulance shall be on the premises during the period beginning one (1) hour prior to post time for the first race on the program, or first qualifying race, through the conclusion of the racing program. If the ambulance must leave its station***[~~for any reason~~]***, a replacement ambulance shall be present on the association grounds before the next race is run.

Section 15. Commission Office. ***An[~~Each~~]*** association shall provide suitable facilities for the commission in the conduct of its business. Failure to do so within ten (10) days after written notification by the commission setting out the deficiencies of ***association[~~said~~]*** facilities shall subject ***the[~~said~~]*** licensee to a fine up to $250 per day for each day that suitable facilities are not thereafter provided.

Section 16. Policing of Premises. The association shall provide a sufficient number of guards and watchmen to maintain order on all parts of the racing enclosure. No tipster shall be allowed on***[~~any part of~~]*** the licensed premises, no groom or stable attendant shall loiter in the betting ring or ***elsewhere[~~any place else~~]*** with the evident intention of engaging in tipping for any remuneration or for nothing, and ***a person[~~anyone~~]*** so found shall be immediately escorted to the general manager of the licensee and his license shall be taken up, and the licensee shall thereafter exclude ***the[~~said~~]*** person from the licensed premises.

Section 17. Supervision of Peddlers. The association shall supervise the practice and methods of***[~~so-called~~]*** merchandise peddlers who may have entry to the track enclosure.***[~~Such~~]*** Supervision shall be extended to any other stables where horses are lodged which may be eligible to race at ***the[~~said~~]*** meeting. However, the association shall not by virtue of this rule or otherwise restrict the open purchasing or attempt to control or monopolize ***any[~~said~~]*** business or proper selling of merchandise to owners, trainers, or stable employees.

Section 18. Drinking Fountains and Rest Rooms. The association shall furnish an adequate number of free drinking water fountains, comfort stations, and washrooms throughout its grounds and buildings for the use of the public.

Section 19. Stabling of Horses. ***A[~~Any~~]*** horse racing at a licensed meeting must be stabled within the confines of that track; ***[~~provided,~~]*** however, in case of necessity***[~~such~~]*** a horse may be stabled within the confines of an adjacent Kentucky race track, or in another location approved by the commission. The association holding the race meeting shall provide for temporary stabling of horses, eligible to race, which are brought to the races from approved outside stable space.

Section 20. Watchmen in Stable Area. Each association shall maintain and furnish complete and adequate watchman service night and day in and about all stable enclosures.

Section 21. Duties of Watchmen.

(1) Watchmen***[~~so employed~~]*** shall be individually responsible for the certain part of the stable enclosure where they are on duty and shall immediately investigate and report the presence of anyone during the night or day who may be within ***the[~~said~~]*** stable enclosure without possessing proper credentials.

(2) A letter of instructions to all watchmen shall be addressed to each of them by the association, covering fully their duties and their strict obligation to keep stable enclosures free from outsiders and

hangers on, and a copy thereof furnished to the commission.

Section 22. Stable Enclosures Fenced.***[All]*** Stable enclosures must be properly fenced and admission granted only on proper license or credentials actually shown to the gatemen. This rule may be waived with commission approval.

Section 23. Betting by Racing Officials. Betting by racing officials is prohibited.

Section 24. Betting by Paddock Employees. ***A[Any]*** track employee working in the paddock area is not allowed to bet or pass information to outsiders for betting purposes.

Section 25. Exculpatory Clauses. Effective January 1, 1997, agreements (including but not limited to stall applications, entry forms, and condition books) between persons or entities licensed by the Kentucky Racing Commission regarding the stabling of horses, the racing of horses, the training of horses or other activities at tracks owned or operated by licensed associations, and conditions of racing established by licenses associations, shall not contain provisions ***that[which]*** absolve or hold harmless a licensee from liability, or limit the liability of a licensee, for loss, loss of use, injury**,** or damage caused or contributed to by the acts or omissions of any licensee**,** ***[or]***its agents**,** or employees, except for:

(1) Ordinary negligence ***that[which]*** causes or contributes to loss, injury**,** or damage to horses while on the premises of a licensed association; and

(2) Ordinary negligence ***that[which]*** causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury**,** or damage to horses arising from the use of grass fields ("gallops") owned or controlled by the licensed association. Subject to the above exceptions, all licensees participating in the stabling of horses, the racing of horses, the training of horses, and related activities at tracks owned or operated by licensed associations shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law. No licensee shall attempt to limit liability of ***a[any]*** person or entity for gross negligence or intentional wrongdoing.

Section 26. Constructive Notice to and Consent of Licensees.***[All]*** Persons licensed by the Kentucky Horse Racing Commission shall be deemed, as a condition of licensure, to have notice of and to have consented to exculpatory provisions, ***that[which]*** comply with the limitations set forth in this regulation, included in agreements between licensees and in conditions of racing established by a licensed association. Exculpatory provisions which exceed the limitations set forth in this regulation shall be void and unenforceable in their entirety.

Section 27. Model Provision. The following provision shall be deemed to comply with the limitations set forth in this regulation: All Kentucky Horse Racing Commission licensees, including but not limited to the host association, owners, trainers, jockeys, drivers, and grooms ("licensees"), participating in stabling, racing, training, and related activities at (name of licensed association) recognize that hazards and risks inherent in such activities may cause the injury or death of horses. Therefore, in consideration of participating in stabling, racing, training and related activities at (name of licensed association), all licensees assume the risks of, and release, hold harmless**,** and covenant not to sue ***other participating licensees[all other licensees so participating]*** for:

(1) Ordinary negligence ***that[which]*** causes or contributes to loss, loss of use, injury**,** or damage to horses while on the premises of (name of association); and

(2) Ordinary negligence ***that[which]*** causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury**,** or damage to horses arising from the use of grass fields ("gallops") owned or controlled by (name of licensed association), whether arising from alleged acts or omissions of a licensee**,***[and]* its agents**,** or employees, the condition of the premises ***of[or]*** (name of licensed association)**,** or any other cause. Except as provided above, ***[all]*** licensees participating in racing, training**,** and related activities at (name of licensed association) shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law.

Section 28. Persons Permitted on Licensed Premises.

(1) A licensee of the commission shall immediately report to association security personnel the presence of any person not authorized by this administrative regulation to be on all or any portion of association grounds.

(2) A licensee shall take all necessary measures that are not prohibited by law to maintain the security of horses on association grounds and to protect horses from injury due to mistreatment, fright, or tampering.

(3) Persons not employed by, or not the invited guests of, the racing association**,***[or]* the owner**,** or trainer of a horse scheduled to run that day shall be excluded from the paddock area, race strip, and appurtenant portions of the track, with the following exceptions***:[;]***

(a) Members, officers, and employees of the commission;

(b) Racing officials;

(c) Police officers;

(d) Officials and directors of the United States Trotting Association;

(e) Officials and directors of Standardbred Canada; and

(f) Duly-accredited members of the news media.

Section 29. Admission to Premises. A current badge or button issued by the commission, or a current badge or button issued by the Association of Racing Commissioners International, shall be honored for admission to any location on association grounds operating under the jurisdiction of the commission.

Section 30. Limited Admission.

(1) A person not possessing and displaying a properly-issued badge or identification card shall not be permitted to enter any part of the licensed premises except the clubhouse, grandstand, or other areas open to patrons or the general public, with the following exceptions:

(a) Members, officers, and employees of the commission;

(b) Racing officials;

(c) Police officers;

(d) Persons permitted into the paddock area, race strip, and appurtenant portions of the track under Section 1(3) of this administrative regulation; and

(e) Persons permitted into the stable area under Section 3(2) of this administrative regulation.

(2) Only the following persons performing official duties within the stable area shall be entitled to enter the stable area of a licensee:

(a) Members, officers, and employees of the commission;

(b) Members and employees of the association;

(c) Racing officials;

(d) Police officers;

(e) Owners;

(f) Trainers;

(g) Grooms; and

(h) Others who are performing official duties within the stable area.

Section 31. Identification Cards and Badges. (1) Cards and badges.

(a) A licensee shall issue identification cards or badges only to:

1. The licensee's officers, employees, guards, and watchmen;

2. Drivers; and

3. Owners and trainers and their employees, assistants, grooms, and attendants.

(b) A licensee shall have the right to recall identification cards or badges upon reasonable cause to believe a violation of the law has occurred or as reasonably necessary to maintain effective security procedures.

(c) Identification cards or badges shall be collected from owners and trainers and their employees, assistants, grooms, and attendants when the horses of the owners or trainers are removed from the licensed premises.

(d) An identification card or badge shall not be transferable.

(e) An identification card or badge shall be subject to forfeiture if utilized or attempted to be utilized by a person other than the person to whom it was issued.

(f) The commission shall specifically identify by color designation each association under its control. The licensee shall only authorize admittance to the association upon the showing of a properly color-coded identification card or badge. An identification card or badge shall be subject to forfeiture if the holder utilizes the card or badge to attempt to gain entry or access to an association other than the one for which the card or badge applies.

(g) ***An[~~Any~~]*** identification card or badge may be declared forfeit by the executive director of the commission, the designated representative of the commission, or the presiding judge upon reasonable cause to believe a violation of the law has occurred, or as reasonably necessary to maintain effective security procedures.

(2) Enforcement. The director of security designated by the commission shall have the primary responsibility of enforcing this administrative regulation.

Section 32. Association with Undesirables Prohibited.

(1) (a) An owner, driver, trainer, groom, attendant, or other person having charge of or access to a harness race horse shall not associate with, consort with, or in any manner communicate with a known gambler, bookmaker, tout, or persons of similar pursuits either on or off association grounds.

(b) An owner, driver, trainer, groom, attendant, or other person having charge of or access to a harness race horse shall be presumed to have knowledge of the reputation or notoriety of persons with whom he or she has communications regarding horse racing.

(2) A person under the jurisdiction or control of the commission shall have a duty to immediately report knowledge of any of the following activities to the commission or one (1) of its appointed representatives:

(a) Offer or promise of a bribe;

(b) Request or suggestion for a bribe;

(c) Offer, promise, request, or suggestion of any other improper, corrupt, or fraudulent act or practice that could affect the outcome of a race; or

(d) Request or suggestion that ***a[~~any~~]*** race be conducted otherwise than fairly and in accordance with the law.

Section 33**.** Tack Inspection.

(1) For the purpose of maintaining the safety and security of the association grounds, the commission or its designated representative shall have the right to permit an authorized person to inspect or examine the personal effects or property of every trainer, driver, stable foreman, groom, authorized agent, and veterinarian, by entering in or upon:

(a) The stable, rooms, or other places within the track enclosure where a race meeting is held; or

(b) Other tracks or places where horses eligible to race at a race meeting are kept.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 3:001. Definitions *for 810 KAR Chapter 3*.

RELATES TO: ***KRS Chapter 230[~~810 KAR Chapter 3~~]***
STATUTORY AUTHORITY: KRS 230.215***(2)***, 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which ***horse[~~thoroughbred~~]*** racing ***is[~~shall be~~]*** conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation defines the terms used in 810 KAR Chapter 3.

Section 1. Definitions.

(1) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(2) "Allowance race" means a race in which contestants receive weight allowance based on performance or winnings as stipulated in the conditions of the race.

(3) "ARCI" means the Association of Racing Commissioners International.

(4) "Association" is defined by KRS 230.210***(5)[~~(1)~~]***.

(5) "Authorized agent" means in flat racing any person currently licensed as an agent for a licensed owner, jockey, or jockey apprentice by virtue of notarized appointment of agency filed with the commission.

(6) "Claiming race" means a race in which ownership of a horse participating in the race may be transferred in conformity with ***810[~~811~~]*** KAR 4:050 and 810 KAR 5:030

(7) "Commission" means:

(a) The Kentucky Horse Racing Commission ***as defined by KRS 230.210(16)[~~(formerly known as the Kentucky Horse Racing Authority and defined in KRS 230.210(2))~~]*** if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; ***or[~~and~~]***

(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.

(8) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(9) "Coupled entry" means two (2) or more horses in a race that are treated as a single betting interest for pari-mutuel wagering purposes.

(10) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(11) "Directive" means an official order issued by the commission or the executive director.

(12) "Draw" means the process of determining post positions by lot.

(13) "Driver" means in standardbred racing a person who is licensed to drive a horse in a race.

(14) "Early closing race" means in standardbred racing a race for a definite amount of money in which entries close at least six (6) weeks prior to the race.

(15) "Electronic eligibility" means a computer-generated eligibility certificate that records a horse's racing statistics.

(16) "Entry" means the act of nominating a horse for a race in conformance with ***KAR*** Title 810***[~~KAR~~]***.

(17) "Equipment" means in flat racing accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes whip, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(18) "Horse" means any equine irrespective of age or sex designation and registered for racing with the applicable breed registry.

(19) "Ineligible" means a horse or person not qualified under ***KAR*** Title 810***[~~KAR~~]*** or conditions of a race to participate in a specified racing activity.

(20) "Jockey" means a rider currently licensed to ride in races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(21) "Judge" means a duly appointed racing official with powers and duties specified in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(22) "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(23) "Licensee" means an individual, firm, association, partnership, corporation, ***limited liability company,*** trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(24) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing. A meeting shall begin at 10 a.m. of the first racing day and extend through a period ending one (1) hour after the last scheduled race of the last day.

(25) "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(26) "Nominal change in ownership" means the sale, pledge, encumbrance, execution of an option agreement, or any other transfer of less than five (5) percent of the equity securities or other ownership interest of a partnership, association, corporation, ***limited liability company,*** or other legal entity holding a license issued by the commission.

(27) "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(28) "Pari-mutuel wagering," "mutuel wagering", or "pari-mutuel system of wagering" each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one or more designated wagering pools and the net pool is returned to the winning patrons.

(29) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by rules which, if true, would exclude that horse or driver from racing.

(30) "Purse" means the gross cash portion of the prize for which a race is run.

(31) "Race" means a running contest between horses ridden by jockeys or driven by drivers at a recognized meeting, during regular racing hours, for a prize.

(32) "Racing official" means a racing commission member, commission staff, as duties require, and all association racing department employees, as duties require.

(33) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pools.

(34) "Ruled off" means denial of entrance to premises of any association under jurisdiction of the commission.

(35) "Rulings" means all determinations, decisions, or orders of the stewards or of the commission duly issued in writing and posted.

(36) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race.

(37) "Simulcasting" is defined by KRS 230.210***(19)***~~(11)~~.

(38) "Steward" means a duly appointed racing official with powers and duties specified in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(39) "Substantial change in ownership" means the sale, pledge, encumbrance, execution of an option agreement, or any other transfer of five (5) percent or more of the equity securities or other ownership interest of a partnership, association, corporation, limited liability company, or other legal entity holding a license issued by the commission.

(40) "Suspended" means withdrawal of racing privileges by the stewards or commission.

(41) "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices, that accepts and processes the cashing of wagers, calculates the odds and prices of the wagers, and records, displays, and stores pari-mutuel wagering information.

(42) "USTA" means the United States Trotting Association.

(43) "Workout" means in flat racing the training exercise of a horse on the training track or main track of an association during which the horse is timed for speed over a specified distance.

(44) "Year" means twelve (12) consecutive months beginning with January and ending with December.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 3:010. Licensing of racing associations.

RELATES TO: KRS 230.215, 230.260, 230.280, 230.290, 230.300, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(9), 230.280, 230.300(1), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) vests the Kentucky Horse Racing Commission with the authority to promulgate regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. KRS 230.280 prohibits any person from conducting a horse race meeting for any stake, purse, or reward within the Commonwealth without securing the required license from the commission. KRS 230.260(9) authorizes the commission to prescribe by administrative regulation application forms for licenses. KRS 230.300 authorizes the commission to issue licenses to conduct race meetings. This administrative regulation establishes licensing application procedures and requirements for conducting horse racing at horse race meetings in the Commonwealth.

Section 1. Definitions.

(1)***["Nominal change in ownership" is defined in 810 KAR 3:001, Section 1(26).***

~~(2)~~***]*** "Principal" is defined by KRS 230.210***(14)[***~~(17)~~***]***.

(2)[~~(3)~~***]*** "Publicly traded corporation" means a corporation that:

(a) Has voting securities registered under Section 12 of the Securities Exchange Act of 1934 (1934 Act), 15 U.S.C. 78a et seq.;

(b) Issues securities subject to Section 15(d) of the 1934 Act;

(c) Has voting securities exempted from the registration requirements due to Section 3 of the Securities Act of 1933, 48 U.S.C. 77a et seq.; or

(d) Is required to file under the 1934 Act.***[***~~(4) "Substantial change in ownership" is defined by 810 KAR 3:001, Section 1(39).~~***]***

Section 2. License Applications.

(1) New license applications. A person or legal entity desiring to conduct thoroughbred racing in the Commonwealth shall apply to the commission for an association license pursuant to KRS 230.300(1).

(2) Renewal applications. Racing association licenses shall be renewed annually in accordance with KRS 230.300***(1)***.

(3) An initial or renewal license application to conduct a horse racing meeting shall be submitted on the form "Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-mutuel Wagering," KHRC 3-010-1.

(4) An applicant that is unable to provide information required on the application shall fully explain and document to the satisfaction of the commission its inability to provide the information, and shall provide the information promptly upon being able to do so.

Section 3. License and Investigation Fees.

(1) ***License fee.***

(a) An initial applicant for an initial license shall submit with the application a non-refundable initial license fee of $5,000.

(b) A renewal applicant shall not be charged a fee to renew a racing association license, unless an investigation fee is authorized by subsection (2) of this section.

(2) ***Investigation fees.***

(a) Initial applicants shall submit with the application an investigation fee of $10,000.

(b)1. The commission may require a renewal applicant or an applicant proposing a substantial change in ownership to pay an investigation fee of $10,000 if:

a. The applicant or one (1) of its principals has not previously been subject to an investigation;

b. More than five (5) years has passed since the last investigation of the applicant or one (1) of its principals was conducted; or

c. The commission finds other good cause for an investigation.

2. If an investigation fee is requested, the applicant shall submit a cashier's check or certified check payable to the commission within ten (10) days of receipt of the request.

(c)*[~~If the commission determines that investigation of a renewal applicant or an applicant that is proposing to undergo a substantial change in ownership is necessary, the applicant shall pay an investigation fee of $10,000.~~]* The investigation fee shall pay all costs incurred by the commission in reviewing the application.

(d)*[~~(a)~~]* Any portion of the investigation fee not required to complete the investigation shall be refunded to the applicant within twenty (20) days of the withdrawal, rejection, or approval of the license application or proposed change of ownership.

(e)*[~~(b)~~]* If additional costs are incurred in the conduct of the investigation, the applicant shall submit a cashier's check payable to the commission in the amount ***reasonably*** requested by the commission within ten (10) days of receipt of the request. Failure to submit this payment shall result in suspension of processing the license application or proposed change of ownership and may result in denial of the license or proposed change of ownership.

Section 4. Licensing Criteria.

(1) The commission shall issue a license if it determines that:

(a) The applicant meets all requirements of KRS Chapter 230 and this KAR Title 810;

(b) The applicant is qualified and financially capable of operating a race track;

(c) The applicant will conduct racing in accordance with KRS Chapter 230 and KAR Title 810;

(d) The applicant will conduct racing in accordance with the highest standards and the greatest level of integrity; and

(e) The issuance of a license will ensure the protection of the public interest.

(2) In reviewing an application, the commission may consider any information, data, reports, findings, or other factors available which it deems relevant to its determination of whether the applicant is qualified to hold a license, including:

(a) The integrity of the applicant and its principals, including:

1. Whether the applicant or its principals is unsuitable pursuant to KRS 230.280(2)(f);

2. Whether the applicant or its principals has been a party to litigation over business practices, disciplinary actions over a business license, or refusal to renew a license;

3. Whether the applicant or its principals has been a party to proceedings in which unfair labor practices, discrimination, or violation of government regulations pertaining to racing or gaming laws was an issue, or bankruptcy proceedings;

4. Whether the applicant or its principals has failed to satisfy judgments, orders, or decrees; and

5. Whether the applicant or its principals has been delinquent in filing tax reports or remitting taxes***;****[~~.~~]*

(b) The quality of physical facilities and equipment, including any improvements and equipment proposed or existing in the applicant's facility;

(c) If a new applicant, the schedule for completion of a racing facility and the feasibility of meeting the schedule;

(d) The types and variety of pari-mutuel horse racing which the applicant proposes to offer;

(e) The financial ability of the applicant to develop, own, and operate a pari-mutuel facility successfully;

(f) If a new applicant, the status of governmental actions required to approve or facilitate the applicant's facility;

(g) The management ability of the applicant and its principals;

(h) Compliance of the applicant with applicable statutes, charters, ordinances, or regulations;

(i) The efforts of the applicant to promote, develop, and improve the horse racing industry in Kentucky;

(j) The impact of the facility upon the Commonwealth of Kentucky in the following areas:

1. Employment created, purchases of goods and services, public and private investment, and taxes generated;

2. Ecological and environmental impact;

3. Social impact; and

4. Cost of public improvements***;****[~~.~~]*

(k) The extent of public support or opposition to horse racing and pari-mutuel wagering at the location where the license is sought; and

(l) The effects of the location of the track, including the following:

1. Number, nature, and relative location of other licensees; and

2. Minimum and optimum number of racing days sought by the applicant.

Section 5. Racing Date Assignments. In assigning racing meetings and race dates to applicants, the commission shall consider factors relating to the economic and practical feasibility of conducting racing meetings at association race tracks, including:

(1) The types and dates of racing meetings held elsewhere, both within and outside of the Commonwealth;

(2) The effects that various types of pari-mutuel racing have upon one another;

(3) The quality of horse racing provided at other racetracks;

(4) Dates traditionally awarded racetracks in the past;

(5) The past performance of the licensee;

(6) Whether the licensee has complied with KRS Chapter 230 and ***KAR*** Title 810***[KAR]***;

(7) Whether the assignment of racing dates will maximize revenues to the state;

(8) Whether the assignment of racing dates will adversely affect the public health, welfare, and safety;

(9) The projected stability of the racing dates to be awarded; and

(10) The stability of the racing circuit within and outside the Commonwealth.

Section 6. License Applicant Presentation.

(1) An applicant that has submitted a completed license application and all accompanying fees may request to make a presentation of its application at a meeting of the commission prior to the ruling on the application.

(2) The presentation shall be limited to information contained in the application and any supplemental information relevant to the applicant's suitability. The admission of supplemental information shall be subject to the discretion of the commission.

Section 7. Additional Information. At any time prior to issuing a license, the commission may request additional information if the information would assist the commission in deciding whether to issue a license, including:

(1) Copies of any documents used by the applicant in preparing the application; and

(2) Contracts between the applicant and third parties related to operations.

Section 8. Change in Ownership.

(1) A change in ownership shall be reported to the commission on the Kentucky Horse Racing Commission Racing Association Change of Control Form***, KHRC 3-010-2***.

(2) Notice of a nominal change in ownership shall be filed with the commission within fifteen (15) days of the execution of the documents upon which the proposed nominal change is based.

(3) Notice of a change of ownership shall not be required for:

(a) A nominal change ***in[~~of~~]*** ownership if the licensee is a publicly traded corporation;

(b) The transfer of an ownership interest in an association, direct or indirect, whether substantial or nominal, if by a publicly traded corporation and the beneficial ownership is acquired by a person who ***will[~~shall~~]*** hold the voting securities of the publicly traded corporation for investment purposes only; or

(c) A debt transaction of a publicly traded corporation, unless ***the[~~such~~]*** transaction results in the pledge or encumbrance of the assets or any portion thereof of the association.

(4) Notice of a substantial change in ownership shall be filed with the commission prior to the execution of the documents upon which the proposed substantial change is based and shall constitute a request for approval of the change.

(a) Absent prior written approval from the commission, a substantial change in ownership shall result in termination of the license.

(b) Any attempt to effect substantial change in ownership not in writing shall be considered void by the commission.

Section 9. Material Modification of Proposed or Existing Facility. A new applicant or association with an existing facility shall not materially alter the grounds or facilities after a license has been issued for that facility without prior written approval of the commission or, if designated by the commission, the executive director of the commission.

Section 10. Late Fee.

(1) A licensee that fails to conduct racing after the commencement date specified in the license may be subject to a late fee not to exceed $15,000 per day.

(2) The amount of the late fee shall be based on the economic impact caused by the licensee's failure to perform.

(3) The late fee shall not be imposed for a particular day if the licensee can prove to the satisfaction of the commission that the cause of delay was:

(a) Beyond the control and without the fault or negligence of the licensee, its contractors, and subcontractors; or

(b) The default of a contractor or subcontractor, if:

1. Arising from causes beyond the control of the licensee, its contractors, and subcontractors; and

2. The supplies or services to be furnished by the contractor or subcontractor were not obtainable from other sources in sufficient time for the licensee to meet the completion date.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering Form", KHRC 3-010-1***, 11/2018***; and

(b) "Kentucky Horse Racing Commission Racing Association Change of Control Form", KHRC 3-010-2***, 11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained at the commission's Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 3:020. Licensing of racing participants.

RELATES TO: KRS 230.215, 230.260, 230.280, 230.290, 230.300, 230.310, 230.320***, 230.330***

STATUTORY AUTHORITY: KRS 230.215(2), 230.240(2), 230.260(4), 230.290(2), 230.310(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the Kentucky Horse Racing Commission the authority to regulate conditions under which horse racing shall be conducted in Kentucky. KRS 230.310(1) authorizes the commission to establish licensing requirements for participation in horse racing. This administrative regulation establishes licensing procedures and requirements for participation in horse racing.

Section 1. Definitions.

(1) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, limited liability company, association, club, committee, organization, lessor, lessee, racing stable, farm name, or other group of persons acting in concert.

(2) "Restricted area" means a portion of association grounds to which access is limited to licensees whose occupation or participation requires access, and to those individuals accompanying a licensee as permitted by the association.

Section 2. Persons Required to Be Licensed.

(1) A person shall not participate in pari-mutuel racing under the jurisdiction of the commission without a valid license issued by the commission.

(2) License categories shall include:

(a) Association employee;
(b) Assistant trainer;
(c) Claiming;
(d) Commission member;
(e) Commission employee;
(f) Dental technician;
(g) Driver;
1. Qualifying-fair (QF) license;
2. Provisional (P) license; and
3. Full (A) license;
(h) Driver/trainer;
(i) Equine therapist;
(j) Exercise rider;
(k) Farm manager or agent;
(l) Farrier;
(m) Farrier apprentice;
(n) Jockey;
(o) Jockey agent;
(p) Jockey apprentice;
(q) Matinee driver;
(r) Mutuel employee;
(s) Owner;
(t) Owner (Temporary);
(u) Owner/assistant trainer;
(v) Owner/trainer;
(w) Owner/trainer/driver***;***
(x) Owner/driver;
(y) Racing department employee;
(z) Racing official;
(aa) Special event employee;
(bb) Stable employee;
(cc) Steeplechase jockey;
(dd) Trainer;
(ee) Vendor;
(ff) Vendor employee;
(gg) Veterinarian;
(hh) Veterinary assistant; and
(ii) Veterinary technologist or technician.

(3)[~~(2)~~] A person working at a licensed racing association in the Commonwealth shall obtain a valid license issued by the commission. The executive director, chief racing steward, the presiding judge, or their designee may refuse entry or scratch any horse involving any person who, after being requested to obtain a valid license, fails or is unable to obtain a license.

(4)[~~(3)~~](a) A person required to be licensed shall submit:

1. A completed written application on the form Licensing Application, 3-020-1, or a multi-jurisdictional license form pursuant to Section 8 of this administrative regulation; and

2. The fee required by Section 6 of this administrative regulation.

(b) A temporary license may be obtained by an authorized representative of an owner in accordance with Section 18 of this administrative regulation.

(c) A conditional license may be issued by the commission or its designee***[~~upon submission of a written application~~]***.

Section 3. General License Application Requirements for All Applicants.

(1) Any person required to be licensed by Section 2 of this administrative regulation and desiring to participate in ***horse[~~thoroughbred~~]*** racing in the Commonwealth may apply to the commission for a license.

(2)(a) An application may be submitted on or after November 1 of the calendar year preceding the calendar year in which the license is to be in force.

(b) An application shall be submitted no later than twenty-four (24) hours after an applicant has arrived on association grounds, unless a temporary license is obtained in accordance with Section 18 of this administrative regulation.

(c) The license application shall be reviewed and the license issued by commission personnel.

(3) Information provided on or with a license application shall be complete and correct. Material misrepresentation by a license applicant or his or her agent shall result in an immediate license suspension, revocation, refusal, or denial, or imposition of a fine by the commission or the chief racing steward or presiding judge.

(4)(a) An applicant for licensing shall be a minimum of sixteen (16) years of age except as provided by paragraph (b) of this subsection. An applicant may be required to submit a certified copy of his or her birth certificate or work permit.

(b) The commission may grant an owner's license to a person less than sixteen (16) years of age if the person's parent or legal guardian is licensed by the commission. An application under this subsection shall be signed by the applicant's parent or legal guardian in the presence of one (1) or more of the stewards or judges.

(5) An application from a person or other entity consisting of more than one (1) individual person desiring to race horses in the Commonwealth shall, upon request, in addition to designating the person or persons representing the entire ownership of the horses, be accompanied by documents which fully disclose the identity, degree, and type of ownership held by all individual persons who own or control a present or reversionary interest in the horses.

(6) The commission shall ***notify[~~provide notice to~~]*** an applicant that the license has been issued or denied. If all requirements for licensure are met, a license shall be issued to the license applicant.

Section 4. Additional Licensing Requirements for Standardbred Driver's License.

(1) A person desiring to drive a harness horse at a race meeting licensed by the commission shall obtain a license from:

(a) The commission; and

(b) The United States Trotting Association, Standardbred Canada, or appropriate international harness racing governing agency.

(2) Commission licenses. A driver's license from the commission shall be issued in one the following categories:

(a) A qualifying-fair (QF) license**,** which shall be valid for fairs, matinees, qualifying races, and if approved by the presiding judge, nonwagering races at extended pari-mutuel meetings;

(b) A provisional (P) license**,** which shall be valid at fairs, matinees, qualifying races, and extended pari-mutuel meetings; or

(c) A full (A) license**,** which shall be valid at all race meetings.

(3) License advancement. An applicant shall initially obtain a qualifying-fair license. Advancement to a provisional license and a full license shall be determined by Rule 17, Sections 1 through 10, of the United States Trotting Association, 2009/2010.

(4) General qualifications. An applicant for a driver's license shall:

(a)1. Be at least sixteen (16) years of age for a (QF) license;

2. Be at least eighteen (18) years of age for a (P) or (A) license; and

3. Not be denied a driver's license solely on the basis of age if the applicant has previously held any type of license; and

(b) Submit satisfactory evidence of an eye examination indicating:

1. 20/40 corrected vision in both eyes; or

2. If one (1) eye is blind, at least 20/30 corrected vision in the other eye.

Section 5. Additional Licensing Requirements for Specific Licenses.

(1) Veterinary personnel.

(a) An application from a person desiring to treat, prescribe for, or attend to any horse on association grounds as a practicing veterinarian shall be accompanied by evidence that the person is currently licensed as a veterinarian by the Commonwealth of Kentucky.

(b) An application from a person desiring to work on association grounds as a veterinary technologist or veterinary technician shall be accompanied by:

1. Evidence that the person is currently registered as a veterinary technologist or veterinary technician by the Commonwealth of Kentucky; and

2. A ***["]***Veterinarian Approval Form***["]***, KHRC 3-020-4**,** signed by a licensed veterinarian certifying that the applicant is working for the veterinarian as required by KRS 321.443.

(c) An application from a veterinary assistant shall be accompanied by a ***["]***Veterinarian Approval Form***["]***, KHRC 3-020-4**,** signed by a licensed veterinarian certifying that the applicant works for him or her as required by KRS 321.443.

(d) Equine therapist. An application from an equine therapist not defined by KRS Chapter 321 shall be accompanied by a ***["]***Veterinarian Approval Form***["]***, KHRC 3-020-4**,** signed by a licensed veterinarian and the chief state veterinarian attesting to the skill and integrity of the applicant.

(2) Farriers. An application from a person not previously licensed in the capacity of farrier shall submit a diploma or other document signifying successful completion of a farrier course or examination recognized by the American Farrier's Association, or submit a letter of recommendation from a licensed farrier.

(3) Standardbred Licensees. (a) A standardbred owner, trainer, owner/trainer, driver, driver/trainer, owner/trainer/driver, or owner/driver shall have a valid license issued by the United States Trotting Association, Standardbred Canada, or other appropriate international harness racing governing agency in order to participate in pari-mutuel racing in Kentucky.

(b) Any standardbred horse under lease shall race in the name of the lessee and a copy of the lease shall be filed with the clerk of the course. A standardbred horse shall not race under lease without an eligibility certificate issued by the United States Trotting Association, Standardbred Canada, or other appropriate international harness racing governing agency in the name of the lessee. Both the lessee and lessor shall be licensed by the commission prior to post.

(c) If any licensed standardbred trainer is absent from a racing meet for more than six (6) days, the trainer shall appoint and have properly licensed a new trainer of record.

(4) Special event licenses.

(a) A special event license shall be:

1. Issued to employees who are employed by an association only for the duration of a special event; and

2. Valid for the days of the event only.

(b) The duration of the license shall not exceed three (3) calendar days.

Section 6. Licensing Fees.

(1) The following annual fees shall accompany the application and shall not be refundable:

(a) Association employee:
1. For thoroughbreds: $25;
2. For standardbreds: $25; or
3. For other horses: $10;
(b) Assistant trainer:
1. For thoroughbreds: $150; or
2. For other horses: $35;
(c) Claiming: $150;
(d) Dental technician: $100;
(e) Driver: $125;
(f) Driver/trainer: $125;
(g) Equine therapist:
1. For thoroughbreds: $50;
2. For standardbreds: $50; or
3. For other horses: $25;
(h) Exercise rider: $10;
(i) Farm manager or agent:
1. For thoroughbreds: $50;
2. For standardbreds: $50; or
3. For other horses: $25;
(j) Farrier:
1. For thoroughbreds: $100;
2. For standardbreds: $100; or
3. For other horses: $35;
(k) Farrier apprentice:
1. For thoroughbreds: $50;
2. For standardbreds: $50; or
3. For other horses: $25;
(l) Jockey:
1. For thoroughbreds: $150; or
2. For other horses: $35;
(m) Jockey agent:
1. For thoroughbreds: $150; or
2. For other horses: $35;
(n) Jockey apprentice:
1. For thoroughbreds: $100; or
2. For other horses: $35;
(o) Matinee driver: $125;
(p) Mutuel employee:
1. For thoroughbreds: $50;
2. For standardbreds: $50; or
3. For other horses: $20;
(q) Owner:
1. For thoroughbreds: $150;
2. For standardbreds: $125; or
3. For other horses: $35;
(r) Owner (temporary):
1. For thoroughbreds: $150;
2. For standardbreds: $125; or
3. For other horses: $35;
(s) Owner/assistant trainer:
1. For thoroughbreds: $150; or
2. For other horses: $35;
(t) Owner/trainer:
1. For thoroughbreds: $150;
2. For standardbreds: $125; or
3. For other horses: $35;
(u) Owner/trainer/driver: $125;
(v) Owner/driver: $125;
(w) Racing department employee: $100;
(x) Racing official:
1. For thoroughbreds: $100;
2. For standardbreds: $100; or
3. For other horses: $35;
(y) Special event employee: $10;
(z) Stable employee:
1. For thoroughbreds: $10;
2. For standardbreds: $5; or
3. For other horses: $5;
(aa) Steeplechase jockey: $150;
(bb) Trainer:
1. For thoroughbreds: $150;
2. For standardbreds: $125; or
3. For other horses: $35;
(cc) Vendor:
1. For thoroughbreds: $50;
2. For standardbreds: $50; or
3. For other horses: $25;
(dd) Vendor employee: $25;
(ee) Veterinarian:
1. For thoroughbreds: $150;
2. For standardbreds: $125; or
3. For other horses: $35;
(ff) Veterinary assistant:
1. For thoroughbreds: $50;
2. For standardbreds: $50; or
3. For other horses: $25; or
(gg) Veterinary technologist or technician:
1. For thoroughbreds: $50;
2. For standardbreds: $50; or
3. For other horses: $25.[~~(a) Association Employee: $25~~
~~(b) Assistant trainer: $150~~
~~(c) Claiming: $150~~
~~(d) Dental technician: $100~~
~~(e) Driver: $125~~
~~(f) Driver/trainer: $125~~
~~(g) Equine therapist: $50~~
~~(h) Exercise rider: $10~~
~~(i) Farm manager or agent: $50~~
~~(j) Farrier: $100~~
~~(k) Farrier apprentice: $50~~
~~(l) Jockey: $150~~
~~(m) Jockey agent: $150~~
~~(n) Jockey apprentice: $100~~
~~(o) Matinee driver: $125~~
~~(p) Mutuel employee: $50~~
~~(q) Owner~~
~~1. For thoroughbreds: $150~~
~~2. For standardbreds: $125~~
~~3. For other horses: $35~~
~~(r) Owner (temporary)~~
~~1. For thoroughbreds: $150~~
~~2. For standardbreds: $125~~
~~3. For other horses: $35~~
~~(s) Owner/assistant trainer;~~
~~1. For thoroughbreds: $150~~
~~2. For standardbreds: $125~~
~~3. For other horses: $35~~
~~(t) Owner/trainer;~~
~~1. For thoroughbreds: $150~~
~~2. For standardbreds: $125~~
~~3. For other horses: $35~~
~~(u) Owner/trainer/driver: $125~~
~~(v) Owner/driver: $125~~
~~(w) Racing department employee: $100~~
~~(x) Racing official: $100~~
~~(y) Special event employee: $10~~
~~(z) Stable employee:~~
~~1. For thoroughbreds: $10~~
~~2. For standardbreds: $5~~
~~3. For other horses: $5~~
~~(aa) Steeplechase jockey: $150~~
~~(bb) Trainer~~
~~1. For thoroughbreds: $150~~
~~2. For standardbreds: $125~~
~~3. For other horses: $35~~
~~(cc) Vendor: $50~~
~~(dd) Vendor employee: $25~~
~~(ee) Veterinarian~~
~~1. For thoroughbreds: $150~~

~~***2. For standardbreds: $125***~~
~~***3. For other horses: $35***~~
~~***(ff) Veterinary assistant: $50***~~
~~***(gg) Veterinary technologist or technician: $50]***~~

(2) A replacement fee for a duplicate license shall be ten (10) dollars, except that this fee shall be waived for the first duplicate license issued during any calendar year.

Section 7. Fingerprinting.

(1) If requested by the commission, a license applicant shall furnish to the commission a set of fingerprints or submit to fingerprinting prior to issuance of a license.

(2) If the license applicant has been fingerprinted in the Commonwealth or another racing jurisdiction within the five (5) years preceding the date of the license application, then the commission may accept the previous fingerprints or require new fingerprints.

(3) The cost of fingerprinting and fingerprint analysis shall be paid by the license applicant.

Section 8. Multi-state/National Licenses.

(1) In lieu of the commission license application form, an applicant may submit an ARCI Multi-Jurisdiction Racing License Owner's Application or the National Racing License Application or Renewal Application.

(2) The commission shall accept a multi-state or national license if it complies with licensing requirements in this administrative regulation and KRS Chapter 230.

Section 9. Consent to Investigate by License Applicants and Licensees. After an applicant files a license application, the commission may:

(1) Investigate the criminal background, employment history, and racing history record of the applicant;

(2) Engage in research and interviews to determine the applicant's character and qualifications; and

(3) Verify information provided by the applicant.

Section 10. Search and Seizure. (1) The commission or designee may search any location described in KRS 230.260(7).

(2) The commission or designee may seize any medication, drug, substance, paraphernalia, object, or device in violation or suspected violation of KRS Chapter 230 or ***KAR*** Title 810***[KAR]***.

(3) A licensee shall:

(a) Cooperate with the commission or designee during an investigation; and

(b) Respond correctly to the best of the licensee's knowledge if questioned by the commission or designee about a racing matter.

(4) A licensee shall consent to out-of-competition testing in accordance with 810 KAR 8:040.

Section 11. Employer Responsibility.

(1)(a) An employer shall not employ an unlicensed person for a position that requires a license under KRS 230.300 or 230.310 or this administrative regulation.

(b) If an employer violates subsection (a), the employer may be subjected to license suspension, denial, or revocation under KRS Chapter 230 or ***KAR*** Title 810***[KAR]***.

(2) Every employer shall report in writing to the commission or its designee, within twenty-four (24) hours, the discharge of any licensed employee, including the employee's name, occupation, and reason for the discharge.

(3) Every employer shall be responsible for ensuring compliance with all applicable employment laws.

(4) The license application of an employee shall be signed by the employer.

(5) A licensed employer shall carry workers' compensation insurance covering his or her employees as required by KRS Chapter 342.

Section 12. Financial Responsibility.

(1) A licensee shall maintain financial responsibility during the period for which the license is issued.

(2) A licensee's failure to satisfy a final judgment rendered against him or her by a Kentucky court, or a domesticated judgment from another jurisdiction, for goods, supplies, services, or fees used in the course of any occupation for which a license is required by this administrative regulation shall constitute a failure to meet the financial responsibility requirements of KRS 230.310.

(3) If the licensee fails to show just cause for his or her failure to satisfy the judgment, then his or her license may be suspended or revoked until the licensee provides written documentation of satisfaction of the judgment.

(4) An applicant for a license may be required to submit evidence of financial responsibility to the commission if a judgment has been rendered against him or her.

Section 13. Voluntary Withdrawal of License Application.

(1) A license applicant may with the approval of the license review committee voluntarily withdraw his or her license application from the license review process.

(2) If the applicant chooses to voluntarily withdraw his or her application, then the withdrawal shall not constitute a denial or suspension of a license and shall be without prejudice.

(3) The stewards or judges shall issue a ruling noting a withdrawal, and the ruling shall be communicated to the Association of Racing Commissioners International.

Section 14. License Review Committee.

(1) The executive director, chief racing steward, presiding judge, or director of licensing may refer a license application to the license review committee in lieu of denying the application.

(2) The license review committee shall be composed of the executive director or designee, the director of licensing or designee, the chief state steward or presiding judge or their designee, and at least one (1) other commission member or commission staff member as designated by the executive director. At least three (3) members of the committee shall participate in any license review committee meeting.

(3) If a referral to the committee is made, then a license shall not be issued until the committee makes a favorable ruling on the license application. The applicant may be required by the committee to appear personally. If the committee is unable to make a favorable ruling on the license application, then the committee may give the license applicant the opportunity to voluntarily withdraw his or her license application in accordance with Section 13 of this administrative regulation. If the license applicant does not wish to voluntarily withdraw his or her application, then the committee shall deny the application.

(4) The denial of the application may be appealed in accordance with KRS Chapter 13B.

(5) In the alternative, the commission, the license review committee, or the executive director may refer the case directly to the commission without denial or approval of the application.

Section 15. License Denial, Revocation, or Suspension.

(1) The commission, executive director, chief racing steward or presiding judge, or director of licensing may deny a license application, and the commission or chief state steward or presiding judge may suspend or revoke a license, or otherwise penalize in accordance with KRS 230.320(1) a licensee, or other person participating in horse racing, for any of the following reasons:

(a) The public interest, for the purpose of maintaining proper control over horse racing meetings or pari-mutuel wagering, may be adversely affected if the license is issued;

(b) The licensee or applicant has any felony or misdemeanor criminal conviction from any jurisdiction, including having entered into any form of diversionary program, within fifteen (15) years preceding the date of submission of a license application;

(c) The licensee or applicant has pending criminal charges or is criminally charged during the license period in any jurisdiction;

(d) The licensee or applicant has had a license issued by the legally constituted racing or gaming commission of a state, province, or country denied, suspended, or revoked;

(e) The licensee or applicant has had a license issued by the Commonwealth revoked, suspended, or denied;

(f) The licensee or applicant has applied for and received a license at less than sixteen (16) years of age, except as permitted in Section 3 of this administrative regulation;

(g) The licensee or applicant has made a material misrepresentation, falsification, or omission of information in an application for a license;

(h) The licensee or applicant has been ejected, ruled off, or excluded from racing association grounds in the Commonwealth of Kentucky or a racetrack in any jurisdiction;

(i) The licensee or applicant has violated or attempted to violate a statute, administrative regulation, or similar rule respecting horse racing in any jurisdiction;

(j) The licensee or applicant has perpetrated or attempted to perpetrate a fraud or misrepresentation in connection with the racing or breeding of a horse or pari-mutuel wagering;

(k) The licensee or applicant has caused, attempted to cause, or participated in any way in an attempt to cause the pre-arrangement of a race result, or has failed to report knowledge of this kind of activity immediately to the stewards or judges;

(l) The licensee or applicant has demonstrated financial irresponsibility as described by Section 12 of this administrative regulation;

(m) The licensee or applicant has knowingly failed to disclose to the commission complete ownership or beneficial interest in a horse entered to be raced;

(n) The licensee or applicant has misrepresented or attempted to misrepresent facts in connection with the sale of a horse or other matter pertaining to racing or registration of a thoroughbred;

(o) The licensee or applicant has offered, promised, given, accepted, or solicited a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failed to report conduct of this nature immediately to the stewards or judges;

(p) The licensee or applicant has abandoned, mistreated, abused, neglected, or engaged in an act of cruelty to a horse;

(q) The licensee or applicant has engaged in conduct that is against the best interest of horse racing, or compromises the integrity of operations at a track, training facility, or satellite facility;

(r) The licensee or applicant has knowingly entered, or aided and abetted the entry, of a horse ineligible or unqualified for the race entered;

(s) The licensee or applicant has possessed on association grounds, without written permission from the commission or the chief state steward or presiding judge, any appliance or device, other than an ordinary whip, which could be used to alter the speed of a horse in a race or workout;

(t) The licensee or applicant has violated any of the alcohol or substance abuse provisions in KRS Chapter 230 or 810 KAR 2:030;

(u) The licensee or applicant has failed to comply with a written order or ruling of the commission, the stewards, or the judges pertaining to a racing matter or investigation;

(v) The licensee or applicant has failed to answer truthfully questions asked by the commission or its representatives pertaining to a racing matter;

(w) The licensee or applicant has failed to return to an association any purse money, trophies, or awards paid in error or ordered redistributed by the commission;

(x) The licensee or applicant has participated in or engaged in any conduct of a disorderly nature on association grounds which includes, but is not limited to:

1. Failure to obey the stewards' or judges' or other official's orders that are expressly authorized by the administrative regulations of the commission;

2. Failure to race when programmed unless excused by the stewards or judges;

3. Fighting;

4. Assaults;

5. Offensive and profane language;

6. Smoking on the track in colors during actual racing hours;

7. Warming up a horse prior to racing without colors; and

8. Disturbing the peace;

(y) The licensee or applicant has used profane, abusive, or insulting language to or interfered with a commission member, employee or agent, or racing official, while these persons are in the course of discharging their duties;

(z) The licensee or applicant is unqualified to perform the duties for which the license is issued;

(aa) The licensee or applicant has discontinued or is ineligible for the activity for which the license is to be issued, or for which a previous or existing license was issued;

(bb) The licensee or applicant has made a material misrepresentation in the process of registering, nominating, entering, or racing a horse as Kentucky owned, Kentucky bred, or Kentucky sired;

(cc) The licensee or applicant has failed to pay a required fee or fine, or has otherwise failed to comply with ***KRS Chapter 230 or KAR Title 810[~~Kentucky statutes or administrative regulations~~]***;

(dd) The licensee or applicant has failed to comply with a written directive or ruling of the commission or the chief state racing steward or presiding judge;

(ee) The licensee or applicant has failed to advise the commission of changes in the application information as required by Section 17 of this administrative regulation;

(ff) The licensee or applicant has failed to comply with the temporary license requirements of Section 18 of this administrative regulation;

(gg) The licensee or applicant has violated the photo identification badge requirements of Section 21 of this administrative regulation;

(hh) The licensee or applicant has knowingly aided or abetted any person in violation of any statute or administrative regulation pertaining to horse racing;

(ii) The licensee or applicant has hired an unlicensed person required by KRS 230.300, 230.310, or this administrative regulation to be licensed;

(jj) The licensee or applicant, being a person other than a licensed veterinarian, has possessed on association grounds:

1. A hypodermic needle, hypodermic syringe, or other device which could be used to administer any substance to a horse, except as permitted by 810 KAR 8:010, Section 3(5); or

2. A medication, stimulant, sedative, depressant, local anesthetic, or any other foreign substance prohibited by ***KRS Chapter 230 or KAR Title 810[~~a statute or administrative regulation of the commission~~]***; or

(kk) The licensee or applicant has manufactured, attempted to manufacture, or possessed a false license photo identification badge.

(2) A license suspension, revocation, or denial shall be reported in writing to the applicant by the chief steward or presiding judge, and to the ARCI by the Division of Licensing, to ensure that other racing jurisdictions shall be advised of the license suspension, revocation, or denial.

(3) A licensee or applicant may appeal the suspension, revocation, or denial in accordance with KRS 230.320 and Chapter 13B.

Section. 16. Reciprocity.

(1) If a person's license has been denied, suspended, or revoked in another jurisdiction, the commission may require reinstatement of the license in that jurisdiction before a license is granted by the commission.

(2) If a person has been ruled off, excluded, or ejected from a racetrack in Kentucky or in another jurisdiction, the commission may require reinstatement of the person at that track before a license is granted by the commission

Section. 17. Changes in Application Information.

(1) The licensee or applicant shall report changes in any information required for licensing in writing to the commission.

(2) Any change in information required for licensing shall be submitted in writing upon the "Change in Application Information Form", KHRC 3-020-3, signed by the licensee, and filed at the commission central office, within thirty (30) days of the change, unless it is information listed in subsection (3) of this section.

(3) The licensee shall report changes in information in writing within 72 hours of the occurrence for these items:

(a) Criminal charges;

(b) Criminal convictions;

(c) License denials and license suspensions of ten (10) days or more;

(d) License revocations or fines of $500 or more in other jurisdictions;

(e) Racing related disciplinary charges pending in other jurisdictions; and

(f) Withdrawal, with or without prejudice, of a license application by the licensee in any jurisdiction.

Section 18. Temporary Licenses.

(1)(a) Only an owner is eligible for a temporary license.

(b) A horse in a trainer's care shall not start in a race unless the owner has a current license or has an application for a temporary license, "Temporary Owner's License Application", KHRC 3-020-2, on file with the commission.

(c) A licensed trainer may apply for a temporary license on behalf of an owner for whom the licensed trainer trains.

(d) The commission may refuse the license if the applicant fails to supply a name, Social Security number, and mailing address for a temporary license.

(e) A temporary license shall be valid for no more than thirty (30) days from the date of issuance and shall automatically lapse after the 30th day pending completion of all licensing procedures.

(f) Upon expiration of the thirty (30) day temporary license, the owner's license shall be suspended or the owner's horses shall be ineligible to race in Kentucky pending completion of all licensing procedures.

(g) Completion of all owner licensing procedures shall extend the owner's license to the end of the calendar year.

(h) If a temporary license expires prior to the completion of all owner licensing procedures, the applicant shall pay an additional licensing fee.

(2) An owner shall not be eligible to be issued more than one (1) temporary license in any calendar year.

(3) A temporary license shall not be valid for claiming.

Section 19. Eligibility for Multiple Licenses. More than one (1) license to participate in horse racing may be granted to a person except if prohibited by this administrative regulation due to a potential conflict of interest.

Section 20. Conflict of Interest.

(1) The license review committee and the chief state steward or presiding judge or their designees shall deny or refuse to process the license of a person, and the commission or the chief state steward or presiding judge shall revoke or suspend the license of a licensee, who is determined to have a conflict of interest. A conflict of interest may exist if a spouse, immediate family member, or other person in a similar relationship to the licensee or applicant holds a license which the license review committee or chief state steward or presiding judge finds to be a conflict of interest with the licensee's or applicant's license. A finding of a conflict of interest may be appealed to the commission pursuant to KRS 230.320 and KRS Chapter 13B.

(2) A racing official who is an owner of either the sire or dam of a horse entered to race shall not act as an official during that race.

(3) A person who is licensed as an owner or trainer, or who has any financial interest in a horse entered in a race, shall not participate in that race as any of the following:

(a) Racing official;

(b) Assistant starter;

(c) Practicing veterinarian for any horse other than the owner's;

(d) Veterinary technician, veterinary technologist, veterinary assistant, or equine therapist for any horse other than the owner's;

(e) Officer or managing employee;

(f) Track maintenance supervisor or employee;

(g) Outrider;

(h) Race track security employee;

(i) Farrier;

(j) Photo finish operator;

(k) Horsemen's bookkeeper;

(l) Racing chemist;

(m) Testing laboratory employee;

(n) Jockey;

(o) Apprentice jockey; or

(p) Jockey agent.

Section 21. License Photo Identification Badges.

(1)(a) If a licensee desires access to restricted areas of a racing association grounds, then the licensee shall carry on his or her person at all times within the restricted area his or her assigned commission license (photo identification badge).

(b) A photo identification badge is available to a licensee upon presentation of appropriate, valid photo identification by the licensee to commission personnel at commission licensing offices.

(2) A person shall present an appropriate license to enter a restricted area.

(3) The stewards or judges or racing association may require visible display of a license in a restricted area.

(4) A license may only be used by the person to whom it is issued, and a licensee shall not allow another person to use his or her badge for any purpose.

(5) Licensee credentials (photo identification badges) are the property of the commission and shall be surrendered to the executive director, the stewards or judges, the commission director of enforcement, or director of licensing, or designee, upon request.

Section 22. Duties of Licensees.

(1) A licensee shall be knowledgeable of this administrative regulation and, by acceptance of the license, agrees to abide by this administrative regulation.

(2) A licensee shall report to track security or the stewards or judges any knowledge the licensee has that a violation of this administrative regulation has occurred or may occur.

(3) A licensee shall abide by all rulings and decisions of the stewards or judges and the commission, and all decisions by the stewards or judges and the commission shall remain in force unless reversed or modified by the commission or a court of competent jurisdiction upon proper appeal pursuant to KRS 230.330.

(4) Rulings and decisions of the stewards or judges may be appealed to the commission, except those made by the stewards or judges as to:

(a) Findings of fact as occurred during and incident to the running of a race; and

(b) A determination of the extent of disqualification of horses in a race for fouls committed during the race.

(5) A licensee shall cooperate fully with all investigations and inquiries made by commission representatives or association security, or both.

(6) A licensee shall obey instructions from commission representatives or association security, or both.

(7) All licensees shall immediately report to the commission any known or suspected irregularities, any violation of ***KRS Chapter 230 or KAR Title 810[~~the administrative regulations of the commission~~]***, or any wrongdoings by any person, and shall cooperate in any subsequent investigation.

Section 23. Common Law Rights of Associations. The validity of a license does not preclude or infringe on the common law rights of associations to eject or exclude persons, licensed or unlicensed, from association grounds.

Section 24. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Licensing Application", KHRC 3-020-1***, 4/2019***;

(b) "Temporary Owner's License Application", KHRC 3-020-2***, 11/2018***;

(c) "Change in Application Information Form", KHRC 3-020-3***, 4/2019***;

(d) "Veterinarian Approval Form", KHRC 3-020-4***, 4/2019***; and

(e) "Rule 17, Sections 1 through 10", United States Trotting

Association, 2009/2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 3:030. Licensing totalizator companies.

RELATES TO: KRS 230.225, 230.260, 230.290, 230.300, 230.310, 230.320, 230.361, 230.370, 230.380

STATUTORY AUTHORITY: KRS 230.215***(2)***, 230.260(3), 230.300, 230.370, 230.380

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(3) and 230.380 vest the commission with authority over any totalizator company that provides totalizator services to racing associations and simulcast facilities located in the Commonwealth. KRS 230.260(3) further requires the commission to license any totalizator company under its jurisdiction, regardless of whether the company is located in the Commonwealth, or operates from a location or locations outside of the Commonwealth. This administrative regulation establishes license application procedures and requirements for totalizator companies that provide totalizator services to racing associations located in the Commonwealth.

Section 1. Definitions.

(1) "Applicant" means an individual, person, or entity that has submitted an application for a license pursuant to this administrative regulation.

(2) "Individual" means a natural person, at least eighteen years of age, but does not include any corporation, partnership, limited liability company, trust, or estate.

(3)***[~~"Nominal change in ownership" is defined in 810 KAR 3:001, Section 1(26).~~***

(4)] "Person" means any corporation, whether organized for profit or not, partnership, limited liability company, trust, estate, association, joint venture, or any other group or combination acting as a unit.

(4)[~~(5)~~] "Principal" is defined ***by[~~in~~]*** KRS 230.210***(14)*** when used in the context of a licensed association or an applicant for a license to conduct a horse race meeting; when used in the context of any other type of entity, "Principal" means any of the following individuals associated with a partnership, trust association, limited liability company, or corporation:

(a) The chairman and all members of the board of directors of a corporation;

(b) All partners of a partnership and all participating members of a limited liability company;

(c) All trustees and trust beneficiaries of an association;

(d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;

(e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five (5) percent or more of stock or financial interest in the collective organization; and***[;]***

(f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation.***[~~(6) "Substantial change in ownership" is defined by 810 KAR 3:001, Section 1(39).~~***

[~~(7) "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices, that accepts and processes the cashing of wagers, calculates the odds and prices of such wagers, and records, displays, and stores pari-mutuel wagering information.~~]

(5)[~~(8)~~] "Totalizator company" means any person providing totalizator services or equipment to a racing association or simulcast facility.

Section 2. License Required.

(1) Any totalizator company that provides totalizator services to a racing association or simulcast facility located in the Commonwealth shall be licensed by the commission.

(2) To obtain a license, an applicant shall apply to the commission for a license on the ***["]***Initial/Renewal License Application to Provide Totalizator Services, KHRC 3-030-1***[~~(9/18)~~]***.

(a) An initial license shall be effective, and the totalizator company may begin operations, upon approval of the commission.

(b) A license to provide totalizator services shall be renewed annually on or before August 1 of the preceding year. The commission shall render a decision on the renewal application on or before December 20. If approved, a renewal license shall be effective January 1.

(3) If an applicant is unable, despite best efforts, to provide all of the required information, the applicant shall fully explain and document its reasons to the satisfaction of the commission, and shall provide the information promptly upon being able to do so.

Section 3. Licensing Fees and Costs.

(1) An annual license fee of $1,000 shall be payable to the commission upon submission of a license application. A license application shall not be complete until receipt of the license fee each year.

(2)(a)The applicant shall pay all costs incurred by the commission in reviewing an application for an initial or renewal license, including:

1. Legal and investigative costs, and

2. The cost of performing background checks on any individual or organization associated with the applicant.

(b) To cover these costs, initial applicants shall submit with the application an investigation fee of $10,000.

(c) Any portion of the payment not required to complete the investigation shall be refunded to the applicant within twenty (20) days of the granting, withdrawal, or rejection of the initial license application.

(d)***1. The commission may require a renewal applicant or an applicant proposing a substantial change in ownership to pay an investigation fee in an amount reasonably requested by the commission if:***

a. The applicant or one (1) of its principals has not previously been subject to an investigation;

b. More than five (5) years has passed since the last investigation of the applicant or one (1) of its principals was conducted; or

c. The commission finds other good cause for an investigation.

2. If an investigation fee is requested, the applicant shall submit a cashier's check or certified check payable to the commission within ten (10) days of receipt of the request.

3.[~~If the commission determines that investigation of a renewal applicant or an applicant that is proposing to undergo a substantial change in ownership is necessary, the applicant shall submit a cashier's check or certified check payable to the commission in an amount requested by the commission within ten (10) days of receipt of request.~~] Failure to submit the payment shall result in suspension of the processing of renewing the license and may result in denial of the license.

(e) To the extent additional costs become necessary to investigate an applicant for a license or a substantial change in ownership of an applicant, the applicant shall submit a cashier's check or certified check payable to the commission in an amount

reasonably requested by the commission within ten (10) days of receipt of the request. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license.

(f) The commission may waive the investigation fees, in part or completely, if the applicant has undergone a certification process or other investigative review by a commission-approved industry or regulatory body.

Section 4. License Application Procedures.

(1) The commission may deny a license to any applicant that provides false or misleading information on or omits material information from the application.

(2) In addition to the "Initial/Renewal License Application to Provide Totalizator Services, KHRC 3-030-1***[~~(9/18)~~]***, an applicant shall provide to the commission:

(a) Audited financial statements for the last three years or, if the applicant does not have audited financial statements, financial and other pertinent information as required by the commission to determine that the applicant is financially capable of operating as a going concern;

(b) A Service and Organization Controls 1 Report (SOC-1) or other independent report in a form acceptable to the commission, completed within the preceding twelve (12) months, to assure adequate financial controls are in place and compliance with totalizator standards. The commission may require that a SSAE 16 audit, or other independent report in a form acceptable to the commission, be conducted annually in order to receive a renewal license;

(c) A list of personnel assigned to work in Kentucky, which shall be kept current and be provided to the commission upon request;

(d) A certification of compliance with the Kentucky Horse Racing Commission Totalizator Standards, KHRC 3-030-03***[~~(9/18)~~]***; ***and***

(e) An agreement to testing of hardware and software as may be directed by the commission; and

(3)[~~(2)~~] In reviewing an application, the commission may consider***[~~(a)~~]*** any information, data, reports, findings, or other factors available that it considers important or relevant to its determination of whether the applicant is qualified to hold a license, including the following:

(a)[~~(b)~~] The integrity of the applicant and its principals, including whether the applicant has:

1. Been convicted of any crime of moral turpitude, embezzlement, or larceny, or any violation of any law pertaining to illegal gaming or gambling, or any crime that is inimical to the declared policy of the Commonwealth of Kentucky with regard to horse racing and pari-mutuel wagering thereon;

2. Been convicted in any jurisdiction within ten (10) years preceding initial licensing or license renewal of any crime that is or would be a felony or class A misdemeanor in the Commonwealth of Kentucky;

3. Been identified in the published reports of any federal or state legislative or executive body, or in an opinion of any judicial body, as being a member or associate of organized crime, or of being of notorious or unsavory reputation;

4. Been charged by any federal, state, or local law enforcement authority with a violation of any federal, state, or local law;

5. Had a gaming or totalizator company license revoked in another jurisdiction on grounds that would have been grounds for revoking the license in Kentucky;

6. Engaged in any other activities that would pose a threat to the public interest or to the effective regulation of horse racing and wagering in Kentucky, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of racing and wagering or in the operation of the business and financial arrangements incidental thereto;

7. Been a party to litigation over business practices or disciplinary actions over a business license;

8. Been a party to proceedings in which unfair labor practices, discrimination, or violation of government regulations pertaining to racing or gaming laws was an issue, or bankruptcy proceedings;

9. Failed to satisfy judgments, orders, or decrees; and

10. Whether the applicant or its principals has been delinquent in filing tax reports or remitting taxes***;[~~:~~]***

(b)[~~(c)~~] The quality of physical facilities and equipment;

(c)[~~(d)~~] The management ability of the applicant and its principals;

(d)[~~(e)~~] Compliance of the applicant with applicable statutes, charters, ordinances, and administrative regulations; and

(e)[~~(f)~~] The efforts of the applicant to safeguard and promote the integrity of pari-mutuel wagering in the Commonwealth.

Section 5. License Applicant Presentation.

(1) An applicant that has submitted a completed license application and all accompanying fees may request or be required to make a presentation of its application at a meeting of the commission prior to the ruling on the application.

(2) The presentation shall be limited to information contained in the application and any supplemental information relevant to the applicant's suitability. The admission of supplemental information shall be subject to the discretion of the commission.

Section 6. Additional Information. The commission may request additional information from an applicant that would assist the commission in deciding whether to issue or renew a license, including copies of any documents used by the applicant in preparing the application and contracts between the applicant and third parties related to operations.

Section 7. Operations.

(1) Before doing business in Kentucky, the licensee shall be qualified to do business in Kentucky.

(2) In addition to the information the commission may request under this or any other applicable administrative regulation or statute, the commission may require the licensee to remit contemporaneously to the commission a copy of any documents required to be filed with the Department of Revenue or other regulatory agency.

(3) The licensee shall operate in conformity with the Kentucky Horse Racing Commission Totalizator Standards, KHRC 3-030-03 ***[~~(9/18)~~]***.

Section 8. Change in Ownership.

(1) A change in ownership shall be reported to the commission on the Totalizator ***Services[~~Serves~~]*** Change of Control Form***, KHRC 3-030-2***.

(2) Notice of a nominal change in ownership shall be filed with the commission within fifteen (15) days of the execution of the documents upon which the proposed nominal change is based.

(3) Notice of a change of ownership shall not be required for:

(a) A nominal change of ownership if the licensee is a publicly traded corporation;

(b) The transfer of an ownership interest in a licensee, direct or indirect, whether substantial or nominal, if by a publicly traded corporation and the beneficial ownership is acquired by a person who shall hold the voting securities of the publicly traded corporation for investment purposes only; or

(c) A debt transaction of a publicly traded corporation, unless ***the[~~such~~]*** transaction results in the pledge or encumbrance of the assets or any portion thereof of the licensee.

(4) Notice of a substantial change in ownership shall be filed with the commission prior to the execution of the documents upon which the proposed substantial change is based and shall constitute a request for approval of the change.

(a) Absent prior written approval from the commission, a substantial change in ownership shall result in termination of the license.

(b) Any attempt to effect substantial change in ownership not in writing shall be considered void by the commission.

Section 9. Duration of License. A license issued under this administrative regulation shall be valid for the calendar year for which it is issued.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Initial/Renewal License Application to Provide Totalizator Services" KHRC 3-030-1***, 11/2018[~~(9/18)~~]***;

(b) "Totalizator ***Services*** Change of Control Form," KHRC 3-030-2***, 11/2018[~~(9/18)~~]***; and

(c) "Kentucky Horse Racing Commission Totalizator Standards," KHRC 3-030-3***, 11/2018[~~(9/18)~~]***.

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(3) This material may also be obtained at the commission's Web site, http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 3:040. Advance deposit account wagering.

RELATES TO: KRS 230.260, 230.290, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(2), 230.310, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which horse racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.260(2) authorizes the Kentucky Horse Racing Commission to issue licenses to any person or entity that offers advance deposit account wagering to Kentucky residents. This administrative regulation establishes the license application procedures and requirements to offer advance deposit account wagering to Kentucky residents.

Section 1. Definitions.

(1) "Account" means an account for advance deposit account wagering with a specific identifiable record of deposits, wagers, and withdrawals established by an account holder and managed by the advance deposit account wagering licensee.

(2) "Account holder" means an individual who successfully completed an application and for whom the advance deposit account wagering licensee has opened an account.

(3) "Advance deposit account wagering" is defined by KRS 230.210(1).

(4) "Advance deposit account wagering licensee" is defined by KRS 230.210(2).

(5) "Applicant" means an individual, person, or entity that has submitted an application for a license pursuant to this administrative regulation.

(6)***[~~"Association" is defined by KRS 230.210(5).~~***

[~~(7)~~] "Confidential information" means:

(a) The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;

(b) The amount of money wagered by a particular account holder on any race or series of races;

(c) The account number and secure personal identification code of a particular account holder;

(d) The identities of particular racing associations on which the account holder is wagering or has wagered; and

(e) Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the advance deposit account wagering licensee that would identify the account holder to anyone other than the commission or the advance deposit account wagering licensee.

[~~(7)~~] "Individual" means a natural person, at least eighteen (18) years of age, but does not include any corporation, partnership, limited liability company, trust, or estate.

[~~(8)~~] "Kentucky resident" is defined by KRS 230.210(12). ***[~~(10) "Nominal change in ownership" is defined by 810 KAR 3:001, Section 1(26).~~]***

[~~(9)~~] "Person" means any corporation, whether organized for profit or not, partnership, limited liability company, trust, estate, association, joint venture, or any other group or combination acting as a unit.

[~~(10)~~] "Principal" means any of the following individuals associated with a partnership, trust association, limited liability company, or corporation:

(a) The chairman and all members of the board of directors of a corporation;

(b) All partners of a partnership and all participating members of a limited liability company;

(c) All trustees and trust beneficiaries of an association;

(d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;

(e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five (5) percent or more of stock or financial interest in the collective organization; and;

(f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation.***[~~(13) "Substantial change in ownership" is defined by 810 KAR 3:010, Section 1(39).~~]***

[~~(11)~~] "Telephone account wagering" is defined by KRS 230.210(19).***[~~(15) "Totalizator" or "Totalizator system" means the system, including hardware, software, communications equipment, and electronic devices, that accepts and processes the cashing of wagers, calculates the odds and prices of the wagers, and records, displays, and stores pari-mutuel wagering information.~~]***

Section 2. License Required to Conduct Advance Deposit Account Wagering.

(1) Any individual, person, or entity, other than a licensed association engaged in telephone account wagering as defined in KRS 230.210(20), that offers advance deposit account wagering to Kentucky residents shall be licensed by the commission.

(2) To obtain a license, an applicant shall apply to the commission for a license on the Initial/***Renewal[~~Renal~~]*** License Application to Conduct Advance Deposit Account ***Wagering[~~Wager~~]***, Form KHRC ***3-040-01[~~3-030-01~~]***.

(3) An initial license shall be effective, and the advance deposit account wagering licensee may begin operations, upon approval of the commission.

(4) A license to conduct advance deposit account wagering shall be renewed annually on or before September 1 of the preceding year, except as provided in Section 7 of this administrative regulation. The commission shall render a decision on the renewal application on or before December 15 of the preceding year. If approved, a renewal license shall be effective January 1.

(5) If an applicant is unable, despite best efforts, to provide all of the required information, the applicant shall fully explain and document its reasons to the satisfaction of the commission, and shall provide the information promptly upon being able to do so.

Section 3. Licensing Fees and Costs.

(1) An annual license fee of $1,000 shall be payable to the commission upon submission of a license application. A license application shall not be complete until receipt of the license fee each year.

(2)(a) The applicant shall pay all costs incurred by the commission in reviewing an application for an initial or renewal license, including***:***

1. Legal and investigative costs***;[,]*** and

2. The cost of performing background checks on any individual or organization associated with the applicant.

(b) To cover these costs, initial applicants shall submit with the application an investigation fee of $5,000.

(c) Any portion of the payment not required to complete the investigation shall be refunded to the applicant within twenty (20) days of the granting, withdrawal, or rejection of the initial license application.

(d)***1. The commission may require a renewal applicant or an applicant proposing a substantial change in ownership to pay an investigation fee in an amount reasonably requested by the commission if:***

a. The applicant or one (1) of its principals has not previously been subject to an investigation;

b. More than five (5) years has passed since the last investigation of the applicant or one (1) of its principals was conducted; or

c. The commission finds other good cause for an investigation.

2. If an investigation fee is requested, the applicant shall submit a cashier's check or certified check payable to the commission within ten (10) days of receipt of the request.

3.[If the commission determines that investigation of a renewal applicant or an applicant that is proposing to undergo a substantial change in ownership is necessary, the applicant shall submit a cashier's check or certified check payable to the commission in an amount requested by the commission within ten (10) days of receipt of request.] Failure to submit the payment shall result in suspension of the processing of renewing the license and may result in denial of the license.

(e) To the extent additional costs become necessary to investigate an applicant for a license or a substantial change in ownership of an applicant, the applicant shall submit a cashier's check or certified check payable to the commission in an amount reasonably requested by the commission within ten (10) days of receipt of the request. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license.

(f) The commission may waive the investigation fees, in part or completely, if the applicant has undergone a certification process or other investigative review by a commission-approved industry or regulatory body.

Section 4. License Application Procedures.

(1) The commission may deny a license to any applicant that provides false or misleading information on or omits material information from the application.

(2) In addition to the complete application, an applicant shall provide to the commission:

(a) Audited financial statements for the last three (3) years or, if the applicant does not have audited financial statements, financial and other pertinent information as required by the commission to determine that the applicant is financially capable of operating as a going concern and protecting accounts;

(b) A detailed plan of how the advance deposit account wagering system will operate; and

(c) A list of all personnel processing wagers on races made by Kentucky residents. This list shall be kept current and be provided to the commission upon request.

(3) The commission may require changes in the proposed plan of operations as a condition of granting a license. There shall not be subsequent material changes in the plan of operations unless ordered by the commission or until approved by the commission after receiving a written request.

(4) The commission may require a report to be conducted in accordance with the Service and Organization Controls 1 Report (SOC-1), or a replacement report approved by the Auditing Standards Board of the American Institute of Certified Public Accountants, or other independent report in a form acceptable to the commission, to evaluate the applicant's control objectives, control activities, and control processes. The commission may require that the report be conducted within the twelve (12) months before issuing an initial license and annually in order to receive a renewal license***.[; and]***

(5) In reviewing an application, the commission may consider any information, data, reports, findings, or other factors available that it considers important or relevant to its determination of whether the applicant is qualified to hold a license, including the following:

(a) The integrity of the applicant and its principals, including:

1. Whether the applicant or its principals is unsuitable pursuant to KRS 230.280(2)(f);

2. Whether the applicant or its principals has been a party to litigation over business practices, disciplinary actions over a business license, or refusal to renew a license;

3. Whether the applicant or its principals has been a party to proceedings in which unfair labor practices, discrimination, or violation of government regulations pertaining to racing or gaming laws was an issue, or bankruptcy proceedings;

4. Whether the applicant or its principals has failed to satisfy judgments, orders, or decrees; and

5. Whether the applicant or its principals has been delinquent in filing tax reports or remitting taxes;

(b) The quality of physical facilities and equipment;

(c) The financial ability of the applicant to conduct advance deposit account wagering;

(d) The protections provided to safeguard accounts, including a certification from the licensee's chief financial officer that account funds will not be comingled with other funds as required in Section 8(13) of this administrative regulation;

(e) The management ability of the applicant and its principals;

(f) Compliance of the applicant with applicable statutes, charters, ordinances, and administrative regulations;

(g) The efforts of the applicant to promote, develop, and improve the horse racing industry in the Commonwealth;

(h) The efforts of the applicant to safeguard and promote the integrity of pari-mutuel wagering in the Commonwealth; and

(i) The economic impact of the applicant upon the Commonwealth.

Section 5. License Applicant Presentation.

(1) An applicant that has submitted a completed license application and all accompanying fees may request or be required to make a presentation of its application at a meeting of the commission prior to the ruling on the application.

(2) The presentation shall be limited to information contained in the application and any supplemental information relevant to the applicant's suitability. The admission of supplemental information shall be subject to the discretion of the commission.

Section 6. Additional Information. The commission may request additional information from an applicant if the additional information would assist the commission in deciding whether to issue or renew a license, including:

(1) Copies of any documents used by the applicant in preparing the application; and

(2) A list of all contracts between the applicant and third parties related to operations. The commission may review the contracts any time upon request.

Section 7. Duration of License.

(1) An initial license issued under this administrative regulation before July 1 shall be valid for the calendar year for which it is issued.

(2) An initial license issued under this administrative regulation on or after July 1 shall be valid for the calendar year for which it is issued and the following calendar year.

Section 8. Operations and Duties of Licensees.

(1) Before doing business in Kentucky, the licensee shall be qualified to do business in Kentucky.

(2)***(a)*** The licensee shall notify the commission of any communication, report, or investigation conducted or to be conducted by the Thoroughbred Racing Association, Thoroughbred Racing Protective Bureau, United States Trotting

Association, American Quarter Horse Association, Arabian Jockey Club, National Thoroughbred Racing Association, or any state or federal regulatory agency that relates to the safety, integrity, or security of the licensee and its participants, or that would reasonably be deemed to affect public confidence in the licensee.

(b) The licensee shall further send a copy of ***the[~~any such~~]*** communication, correspondence, or report to the commission within 24 hours of receipt by the licensee.

(c) This ***subsection[~~regulation~~]*** shall not be construed to include information delivered to licensee officials acting in the capacity of members of the board of directors of the above referenced organizations.

(3) In addition to the information the commission may request under this or any other applicable administrative regulation or statute, the commission may require the licensee to remit contemporaneously to the commission a copy of any documents required to be filed with any local, state, or federal regulatory agency.

(4) The licensee shall notify the KHRC within 24 hours of becoming aware of any suspected or confirmed breach of security of data, including intrusions into the personal information of account holders.

(5) The licensee shall notify the KHRC within 24 hours of becoming aware of a wagering anomaly. The licensee shall provide transactional data to the KHRC upon request. Wagering anomalies include any incident that might reasonably affect the public's confidence in the wagering pools, such as:

(a) Account wagering fraud;

(b) Suspected manipulation through computerized robotic wagering;

(c) Odds manipulation***;***

(d) Quick pick or random pick malfunction;

(e) Cancellation of large wagers, especially within ***two (2)[2]*** minutes of the closing of a wagering pool;

(f) Suspicious wagering patterns; and

(g) Totalizator or data communications malfunctions.

(6)***(a)1.*** All notices required to be given to the commission pursuant to ***subsections (2) through (5) of this section[~~Sections 2 through 5 of this administrative regulation~~]*** shall be provided by phone call to the executive director or the director of pari-mutuel wagering and compliance immediately after the event triggering the notice requirement.

2. In addition, written notice of the event ***required to be given to the commission pursuant to subsections (2) through (5) of this section*** shall be submitted to the executive director and the director of pari-mutuel wagering and compliance no later than twenty-four (24) hours after the event triggering the notice requirement. Written notice may be made by hand delivery, electronic mail, or facsimile.

(b) All notices other than those in ***subsections (2) through (5) of this section[~~Sections 1 through 3~~]*** shall be provided to the director of pari-mutuel wagering and compliance within five (5) business days of the event unless otherwise specifically instructed in ***this administrative regulation[~~these regulations~~]***.

(7) The licensee shall submit to the director of pari-mutuel wagering and compliance or his or her designee an electronic copy of the Advanced Deposit Wagering Excise Tax Report (Kentucky Form 73A102) no later than the first business day of the ***second*** week ***after[~~next succeeding~~]*** the week during which the wagers forming the base of the tax were received.

(8) A licensee shall submit to the commission a separate report for each affiliate under the control of the licensee on the ***[~~form "~~]***Kentucky Horse Racing Commission Quarterly ADW Activity Report ***form,["]*** KHRC 3-040-04, that includes the following information:

(a) For account holders residing in Kentucky:

1. The total amount wagered on races conducted by all Kentucky associations; and

2. The total amount wagered on races conducted by all non-Kentucky associations***; or[.]***

(b) For account holders not residing in Kentucky, the total amount wagered on races conducted by each Kentucky association.

(9) The Kentucky Horse Racing Commission Quarterly ADW Activity Report shall be submitted to the commission according to the following schedule:

(a) For wagering from January 1 through and including March 31, the report shall be submitted no later than the first business day following March 14 of the same calendar year;

(b) For wagering from April 1 through and including June 30, the report shall be submitted no later than the first business day following July 14 of the same calendar year;

(c) For wagering from July 1 through and including September 30, the report shall be submitted no later than the first business day following October 14 of the same calendar year; and

(d) For wagering from October 1 through and including December 31, the report shall be submitted no later than the first business day following January 14 of the next calendar year.

(10) On or prior to the third Friday of September of each year, the licensee shall submit to the commission ***[~~the form "~~]***Kentucky Horse Racing Commission ADW Player Account Balance and Excise Tax Summary Report ***form, KHRC 3-040-05,["]*** certifying the average daily account total for all account holders residing in Kentucky between the first Monday of March of that calendar year and the last Sunday of August of the same calendar year.

(11) On or prior to the third Friday of September of each year, the licensee shall submit to the commission ***[~~the form "~~]***Kentucky Horse Racing Commission ADW Player Account Balance and Excise Tax Summary Report ***form,["]*** KHRC 3-040-05, certifying the average weekly excise tax amount paid to the Commonwealth of Kentucky between the first Monday of March of that calendar year and the last Sunday of August of the same calendar year.

(12) A licensee shall enter into an agreement with each licensed racing association in the Commonwealth on whose races the licensee offers advance deposit account wagering regarding payment of host fees and any other applicable fees, costs, or payments of any kind to be paid to the licensed association. The licensed racing association and the applicable horsemen's organization shall negotiate a separate agreement for contributions to the purse account generated by advanced deposit account wagering.

(13) A licensee shall not comingle account funds with other funds.

(14) A licensee that does not have audited financial statements for the last three (3) years as referenced in Section 4***(2)(a)[~~(1)(d)~~]*** of this administrative regulation shall provide quarterly financial statements to the commission for the first calendar year of operation.

(15) A licensee shall use and communicate pari-mutuel wagers to a totalizator system licensed by the commission.

(16) The licensee shall require its licensed totalizator company to provide all wagering data requested by the KHRC or its designee with respect to any website, affiliate, or any other***[~~such~~]*** entity related to the licensee through which the licensee facilitates wagers by Kentucky account holders or by any account holder who is not a Kentucky resident and who is wagering on Kentucky races.

(17) A licensee shall operate and communicate with the totalizator system in***[~~such~~]*** a way ***that does not[~~as not to~~]*** provide or facilitate a wagering advantage based on access to information and processing of wagers by account holders relative to persons who wager at licensed associations or simulcast facilities.

(18) All personnel processing wagers made by Kentucky residents shall be licensed in the jurisdiction where they are located. If an individual is located in a jurisdiction that is not a racing jurisdiction or that does not require a license, that individual shall be licensed in Kentucky.

(19) Accounts shall only be accepted in the name of an individual and shall not be transferable. Only individuals who have established accounts with a licensee may wager through a licensee.

(20) Each account holder shall provide personal information as the licensee and the commission require.

(a) Required information shall include:

1. Name;

2. Principal residence address;

3. Telephone number;

4. Social Security number;

5. Date of birth; and

6 Other information necessary for account administration.

(b) The information supplied by the account holder shall be verified by the licensee using means acceptable to the commission.

(21) The licensee shall provide each account holder a secure personal identification code and password to be used by the account holder to confirm the validity of every account transaction.

(22) An employee or agent of the licensee shall not disclose any confidential information except:

(a) To the commission;

(b) To the account holder as required by this administrative regulation;

(c) To the licensee and its affiliates;

(d) To the licensed association as required by the agreement between the licensee and the association; and

(e) As otherwise required by law.

(23) The licensee shall provide each account holder a copy of account holder policies and procedures related to pari-mutuel wagering, including the licensee's refund policy, and other information and materials that are pertinent to the operation of the account. This information shall be available on the licensee's official website and shall be viewable without registering for an account with the licensee.

(24) The licensee shall publish a list of racing associations that have authorized the licensee to participate in their wagering pools. This list shall be viewable without registering for an account with the licensee.

(25) The licensee may refuse to establish an account if it is found that any of the information supplied is false or incomplete or for any other reason the licensee deems sufficient.

(26) Each account shall be administered in accordance with the account holder rules/terms of agreement provided to account holders, including, but not limited to:

(a) Placing of wagers;

(b) Deposits to accounts;

(c) Credits to accounts;

(d) Debits to accounts;

(e) Refunds to accounts;

(f) Withdrawals from accounts;

(g) Minimum deposit requirements;

(h) Fees per wager; and

(i) Rebates.

(27) Each licensee shall have protocols in place and shall publicize to its account holders when its wagers are excluded from a host track's wagering pool. These protocols shall include an immediate electronic mail message to affected account holders and immediate posting on the licensee's website.

(28) A licensee shall maintain complete records of the application and the opening of an account for the life of the account plus two (2) additional years. A licensee shall also maintain complete records of the closing of an account for two (2) years after closing. These records shall be provided to the commission upon request.

(29) A licensee shall maintain complete records of all transactions, including deposits, credits, debits, refunds, withdrawals, fees, wagers, rebates, and earnings for two (2) years. These records shall be provided to the commission upon request.

(30) All wagering conversations, transactions, or other wagering communications, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of the communications shall be kept by the licensee for a period of two (2) years. These tapes and other records shall be made available to the commission upon request.

(31) The recording of the confirmation of the transaction, as reflected in the voice or other data recording, shall be deemed to be the actual wager regardless of what was recorded by the totalizator system.

(32) A licensee shall not accept wagers if its recording system is not operable.

(33) The licensee shall synchronize its timing system with the U.S. Naval Observatory Clock or an alternative time synchronization methods approved by the commission at least once every twenty-four (24) hour period.

(34) The commission may monitor the equipment and staff and review the records of a licensee and any of the transactions conducted by the licensee with regards to wagers made by Kentucky residents.

(35) A licensee may suspend or close any account for violation of its account holder rules/terms of agreement, or any other reason it deems sufficient, if it returns to the account holder all monies then on deposit within seven (7) calendar days.

Section 9. Surety Bond or Letter of Credit Required.

(1) Prior to commencement of advance deposit account wagering operations, a licensee shall secure an irrevocable bond from a surety company admitted to the Commonwealth of Kentucky or other form of financial security such as an irrevocable letter of credit in favor of the Commonwealth of Kentucky. A certified copy of the bond shall be submitted to the commission and shall be accompanied by a certified copy of the ***["]***Advance Deposit Wagering Provider Surety Bond or Letter of Credit Form,***["]*** KHRC 3-040-03.

(2) The bond or letter of credit amount shall be 125% of the amount reported in Part II plus 400% of the amount report in Part III of the ***[form "]***Kentucky Horse Racing Commission ADW Player Account Balance and Excise Tax Summary Report ***form***,***["]*** KHRC 3-040-05**,** unless any of the following conditions apply:

(a) If the licensee was not licensed for operation in the Commonwealth of Kentucky prior to January 1 of the current calendar year, the bond or letter of credit amount shall be $50,000.00;

(b) If the sum of the amounts equaling 125% of the amount reported in Part II plus 400% of the amount report in Part III of the ***[form "]***Kentucky Horse Racing Commission ADW Player Account Balance and Excise Tax Summary Report ***form***,***["]*** KHRC 3-040-05, is less than or equal to $50,000, the bond or letter of credit amount shall be $50,000; or

(c) If the sum of the amounts equaling 125% of the amount reported in Part II plus 400% of the amount report in Part III of the ***[form "]***Kentucky Horse Racing Commission ADW Player Account Balance and Excise Tax Summary Report ***form***,***["]*** KHRC 3-040-05, exceeds $500,000, the bond or letter of credit amount shall be $500,000.

(3) The bond or letter of credit shall, if necessary, be used to:

(a) Comply with and perform the provisions and undertakings of the advance deposit account wagering licensee ***stated[set forth]*** in the application as finally approved by the commission;

(b) Discharge the licensee's financial obligations to account holders who are Kentucky residents;

(c) Discharge payment of all taxes and expenses due by the licensee to the Commonwealth; and

(d) Discharge the licensee's financial obligations to any racing association or simulcast facility licensed by the commission.

Section 10. Change in Ownership.

(1) A change in ownership shall be reported to the commission on the Advance Deposit ***Account*** Wagering Change of Control Form, KHRC 3-040-02.

(2) Notice of a nominal change in ownership shall be filed with the commission within fifteen (15) days of the execution of the documents upon which the proposed nominal change is based.

(3) Notice of a change of ownership shall not be required for:

(a) A nominal change of ownership if the licensee is a publicly traded corporation;

(b) The transfer of an ownership interest in a licensee, direct or indirect, whether substantial or nominal, if by a publicly traded corporation and the beneficial ownership is acquired by a person who ***will[shall]*** hold the voting securities of the publicly traded corporation for investment purposes only; or

(c) A debt transaction of a publicly traded corporation, unless ***the[such]*** transaction results in the pledge or encumbrance of the assets or any portion thereof of the licensee.

(4) Notice of a substantial change in ownership shall be filed with the commission prior to the execution of the documents upon

which the proposed substantial change is based and shall constitute a request for approval of the change.

(a) Absent prior written approval from the commission, a substantial change in ownership shall result in termination of the license.

(b) Any attempt to effect substantial change in ownership not in writing shall be considered void by the commission.

Section 11. Unlicensed Activity. With respect to any individual, person, or entity that offers advanced deposit account wagering to Kentucky residents without a license issued by the commission, the commission may take the measures it deems necessary, including referral to the appropriate regulatory and law enforcement authorities for civil action or criminal penalties.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Initial/Renewal License Application to Conduct Advance Deposit Account Wagering", KHRC 3-040-1***, 11/2018***;

(b) "Advance Deposit Account Wagering Change of Control Form", KHRC 3-040-2***, 11/2018***;

(c) "Advance Deposit Wagering Provider Surety Bond or Letter of Credit Form", KHRC 3-040-3***, 11/2018***;

(d) "Kentucky Horse Racing Commission Quarterly ADW Activity Report", KHRC 3-040-4***, 11/2018***; and

(e) "Kentucky Horse Racing Commission ADW Player Account Balance and Excise Tax Summary Report", KHRC 3-040-5***, 11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m.

(3) This material may also be obtained at the commission's Web site, http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 3:050. Simulcast facilities.

RELATES TO: KRS ***230.300,*** 230.377(1), 230.380

STATUTORY AUTHORITY: KRS 230.300(1), 230.380(1), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.300(1) and 230.380(1) require the commission to ***promulgate administrative regulations establishing[~~establish~~]*** criteria for the application and licensure of simulcast facilities***[~~through administrative regulation~~]***. This administrative regulation establishes the criteria for application and licensure of simulcast facilities.

Section 1. Definitions. (1) "Applicant" means:

(a) A licensed track; or

(b) An entity established, and wholly owned, by licensed tracks that have entered in a joint agreement to establish or operate a simulcast facility;

(2) "Host track" is defined by KRS 230.210***(8)[~~(15)~~]***;

(3) "Track" is defined by KRS 230.210***(22)[~~(10)~~]***.

Section 2. License Application.

(1) Prior to commission approval of an application to establish a simulcast facility, an applicant shall submit the information required by the provisions of this section to the commission.

(2) An applicant shall submit the following information in writing:

(a) The name of the applicant;

(b) If the applicant is an entity defined by Section 1(1)(b) of this administrative regulation:

1. The name of the entity;

2. A copy of the organizational documents;

3. A copy of the joint agreement;

4. The location of the principal office; and

5. The names of the officers and directors; ***and***

(c) The name of the county and city in which the applicant intends to locate the simulcast facility.

(3)(a) The location of any licensed track located within any radius specified in subparagraphs 1 and 2 of this paragraph:

1. Within fifty (50) miles of any county line of the county in which the simulcast facility will be located;

2. Greater than fifty (50) miles, but less than seventy-five (75) miles, of any county line of the county in which the simulcast facility will be located; ***and***

(b) The location of any licensed track located within any radius specified in subparagraphs 1 and 2 of this paragraph:

1. Within fifty (50) miles of the city limits of the city in which the simulcast facility will be located; ***and***

2. Greater than fifty (50) miles, but less than seventy-five (75) miles, of the city limits of the city in which the simulcast facility will be located.

(4) The commission may request, in writing, information necessary to determine the financial soundness of the applicant.

(5) After the commission has transmitted the notice required by KRS 230.380(1), it shall:

(a) Approve or reject an application; and

(b) Inform the applicant, in writing, of:

1. Its decision; and

2. The reasons for its decision.

(6) If the commission approves an application, it shall inform, in writing, the applicant that he may establish the simulcast facility if, within sixty (60) days, the local governing body of the jurisdiction in which the simulcast facility is to be located does not exercise its right to reject the facility as provided by the provisions of KRS 230.380(2).

(7) After receipt of commission approval of an application, at least twenty (20) days prior to wagers being accepted at the simulcast facility, an applicant shall file the following information with the commission:

(a) The schedule of race meets to be simulcast;

(b) The complete address of the simulcast facility;

(c) The telephone number of the simulcast facility;

(d) A description of simulcast facility, including:

1. Its total capacity;

2. The seating capacity, excluding dining;

3. The capacity of the dining area;

4. The number of washrooms; ***and***

5. Parking, including:

a. Its location; and

b. The distance to the simulcast facility;

(e) The name, address, and home telephone number of the on-site manager of the simulcast facility;

(f) The name and address of the owner of the real property at which the simulcast facility will be located:

(g) If there is a business enterprise occupying the real property at which the simulcast facility is located, its:

1. Name;

2. Address;

3. Type of business; and

4. Owner;

(h) The name of the supplier of:

1. Concessions;

2. Food; and

3. Alcohol;

(i) The authority for the sale of alcohol;

(j) The name of the totalizator service and mutuel manager;

(k) 1. Name of, location, and distance to, the nearest other licensed track; and

2. Written consent of a licensed track that is located within a radius that is more than fifty (50) miles, but less than seventy-five

(75) miles, from the simulcast facility, if this has not already been provided;

(l) The location of, and distance to, the nearest lottery vendor; and

(m) A statement that the applicant has complied with applicable fire, safety, building, and health codes.

(8)(a) If information submitted to the commission, or required to be submitted to the commission by the provisions of this administrative regulation, changes, an applicant shall immediately inform the commission in writing of the change***.[;]***

(b) The change shall be reviewed by the commission to determine whether the applicant has complied with the provisions of ***KRS Chapter 230[applicable statutes]*** and this administrative regulation.

(9) The commission may refuse to approve an application, and may suspend or revoke a license to establish a simulcast facility on the following grounds:

(a) Failure to comply with the provisions of KRS Chapter 230 and this administrative regulation or any other applicable statute or administrative regulation;

(b) Denial, suspension, or revocation of a license in another racing jurisdiction;

(c) Falsification, misrepresentation, or willful omission of information in an application or with regard to matters pertaining to racing;

(d) Failure to comply with an order or ruling of the commission or its representatives;

(e) Ownership of an interest in, or participation in any manner in, an illegal enterprise, such as bookmaking, touting, bet solicitation, pool-selling;

(f) Association with a person engaged in an illegal activity;

(g) Unqualified by experience or confidence to perform the activity permitted by the license;

(h) Intoxication, profanity, fighting, or other conduct of a disorderly nature on simulcast facility property;

(i) Employment or harboring of persons who are not licensed as required by ***KRS Chapter 230 or KAR Title 810[applicable statute or administrative regulation]***;

(j) Possession on simulcast facility property of firearms without written permission, or not in compliance with applicable statute and administrative regulation;

(k) Use of profane, abusive, or insulting language to the commission or its staff;

(l) Offering, promising, giving, accepting or soliciting a bribe, directly or indirectly, to or by a person having a connection with the outcome of a race;

(m) Failure to report knowledge of items specified in paragraph (l) of this subsection;

(n) Addiction to controlled substances or alcohol;

(o) Prior conviction of a crime, subject to the provisions of KRS 335B.010 and 335B.020; and

(p) Substantiation that an applicant does not possess good moral character.

(10) The commission shall:

(a) Review the information submitted to it by the applicant, pursuant to subsection (7) of this section;

(b) Determine whether it meets the requirements of KRS Chapter 230 and this administrative regulation; and

(c) If it determines that the applicant has not met the requirements of KRS Chapter 230 and this administrative regulation, inform the applicant:

1. Of its determination; ***and***

2. Of the reasons for its determination.

Section 3. Renewal. An application to renew a license for a simulcast facility shall be filed no later than November 1 in the year preceding the calendar year for which renewal is requested and shall include all information required by Section ***2[1(1) through (10)]*** of this administrative regulation.

Section 4. General Requirements.

(1) A simulcast facility shall:

(a) Be kept in an excellent state of repair;

(b) Be operated to ensure that the image of racing and pari-mutuel wagering is enhanced; and

(c) Provide adequate security for the public to assure the perception and fact of an honest enterprise free of corrupt practices.

(2) All interstate wagering shall be received only through a host track licensed by the commission.

(3) A malfunction of the totalizator shall be immediately reported to:

(a) The host track; and

(b) The commission.

(4) Action needed to correct the mutuel pools at a simulcast facility shall be calculated by the mutuel manager of the host track.

(5) Pools shall be limited to the host track's pools and all payoffs shall be consistent with the common pools of the host track.

(6) A simulcast facility shall meet local and state fire and life safety codes at all times.

(7) A simulcast facility shall report to the commission:

(a) An accident that results in injury; and

(b) A crime committed on the property of the facility.

(8) Food and dining services shall be of good quality, so as to promote the image of racing and that of a quality establishment.

(9) Proper smoke ventilation shall be provided to ensure adequate fresh air for designated smoking sections.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:001. Definitions *for 810 KAR Chapter 4*.

RELATES TO: ***KRS Chapter 230[810 KAR Chapter 4]***

STATUTORY AUTHORITY: KRS 230.215, 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation defines the terms used in 810 KAR Chapter 4.

Section 1. Definitions.

(1) "Added money" means the amount of money, exclusive of trophy, added into a stakes race by an association, a sponsor, a state-bred program, or other fund, and ***that[which]*** is in addition to stakes fees paid by subscribers.

(2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(3) "Allowance race" means a race in which contestants receive weight allowance based on performance or winnings as stipulated in the conditions of the race.

(4) "Also eligible" means in flat racing an eligible horse, properly entered, which is not drawn for inclusion in a race, but which becomes eligible according to preference or lot if another horse is scratched prior to the scratch time deadline.

(5) "Appeal" means a request for the commission to investigate, consider, and review any decision or ruling of a steward or judge or official of a meeting.

(6) "Arrears" means all sums due by a licensee as reflected by his or her account with the horsemen's bookkeeper, including subscriptions, jockey fees, driver fees, forfeitures, and any default incident to KAR Title 810.

(7) "Association" is defined by KRS 230.210***(5)***~~[(1)]~~.

(8) "Authorized agent" means in flat racing any person currently licensed as an agent for a licensed owner, jockey, or jockey apprentice by virtue of notarized appointment of agency filed with the commission.

(9) "Calendar days" means consecutive days counted irrespective of number of racing days.

(10) "Claiming race" means a race in which ownership of a horse participating in the race may be transferred in conformity with 811 KAR 4:050.

(11) "Closing" means the time published by the association after which entries for a race ***are not***~~[will not be]~~ accepted by the racing secretary.

(12) "Coggins test" means a blood test used to determine if a horse is positive for Equine Infectious Anemia.

(13) "Commission" means:

(a) The Kentucky Horse Racing Commission (formerly known as the Kentucky Horse Racing Authority~~[and defined in KRS 230.210(2))]~~ if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; and

(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.

(14) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(15) "Coupled entry" means two (2) or more horses in a race that are treated as a single betting interest for pari-mutuel wagering purposes.

(16) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(17) "Declaration" means in flat racing the withdrawal of a horse entered in a race prior to time of closing of entries for the race in conformance with 810 KAR 4:030.

(18) "Directive" means an official order issued by the commission or the executive director.

(19) "Disciplinary action" means action taken by the stewards or the commission for a violation of KRS Chapter 230 or KAR Title 810 and can include:

(a) Refusal to issue or renew a license;

(b) Revocation or suspension of a license;

(c) Imposition of probationary conditions on a license;

(d) Issuance of a written reprimand or admonishment;

(e) Imposition of fines or penalties;

(f) Denial of purse money;

(g) Forfeiture of purse money; or

(h) Any combination of paragraphs (a) through (g) of this subsection.

(20) "Disqualification" means a ruling of the stewards, judges, or the commission revising the order of finish of a race.

(21) "Draw" means the process of determining post positions by lot.

(22) "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(23) "Equipment" means in flat racing accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes **riding crop**[~~whip~~]], blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(24) "Field" or "mutuel field" means a single betting interest***, which is not a mutuel entry,*** involving more than one (1) horse ~~[which is not a mutuel entry]~~.

(25) "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative ruling of the stewards, judges, or the commission.

(26) "Foul" means any action by any jockey or driver that tends to hinder another jockey or any horse in the proper running of the race.

(27) "Handicap race" means in flat racing a race in which the weights to be carried by the horses are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered in the race.

(28) "Horse" means any equine irrespective of age or sex designation and registered for racing with the applicable breed registry.

(29) "Ineligible" means a horse or person not qualified under Title 810 KAR or conditions of a race to participate in a specified racing activity.

(30) "Inquiry" means an investigation by the stewards or judges of a contest prior to declaring the result of the contest official.

(31) "Jockey" means a rider currently licensed to ride in races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(32) "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(33) "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(34) "Maiden" means in flat racing**,** a horse ***that***~~[which]~~ has never won a race at a recognized meeting in any country.

(35) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing. A meeting ***begins***~~[shall begin]~~ at 10 a.m. of the first racing day and extend through a period ending one (1) hour after the last scheduled race of the last day.

(36) "Month" means calendar month.

(37) "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(38) "Nominator" means the person in whose name a horse is entered for a stakes race.

(39) "Objection" means a verbal claim of foul in a race lodged by the horse's jockey, driver, trainer, or owner before the race is declared official.

(40) "Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards or judges.

(41) "Official time" means the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

(42) "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(43) "Pari-mutuel wagering", "mutuel wagering", or "pari-mutuel system of wagering" each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one ***(1)*** or more designated wagering pools and the net pool is returned to the winning patrons.

(44) "Post" means the starting point of a race.

(45) "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(46) "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(47) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by rules, which, if true, would exclude that horse or driver from racing.

(48) "Purse" means the gross cash portion of the prize for which a race is run.

(49) "Purse race" means any race for which entries close at a time designated by the racing secretary, and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(50) "Race" means a running contest between horses,,, ridden by jockeys or driven by drivers at a recognized meeting, during regular racing hours, for a prize.

(51) "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(52) "Racing official" means a racing commission member,

commission staff, as duties require, and all association racing department employees, as duties require.

(53) "Recognized meeting" means any meeting with regularly scheduled live horse races, licensed by and conducted under administrative regulations promulgated by a governmental regulatory body, and conducted with the applicable breed registry.

(54) "Registration certificate" means the document, racing permit, or virtual certificate issued by the appropriate breed registry identifying the horse for racing.

(55) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pools.

(56) "Rulings" means all determinations, decisions, or orders of the stewards or of the commission duly issued in writing and posted.

(57) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race.

(58) "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(59) "Specimen" means a sample of blood, urine, or other biologic sample taken or drawn from a horse for chemical testing.

(60) "Stakes" mean all fees paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as***[may be]*** required by the conditions of the race, with the fees to be included in the purse.

(61) "Stakes race" means a race ***that[which]*** closes more than seventy-two (72) hours in advance of its running and for which subscribers contribute money towards its purse

(62) "Starter" means either:

(a) An official who dispatches the horses from the starting gate; or

(b) A horse in a race when the starting gate doors open in front of it at the moment the starter dispatches the horses for the race.

(63) "Steward" means a duly appointed racing official with powers and duties ***established[specified]*** in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(64) "Subscription" means nomination or entry of a horse in a stakes race.

(65) ""Suspended" means withdrawal of racing privileges by the stewards or commission.

(66) "Thoroughbred racing" is defined by KRS 230.210***(21)[(3)]***.

(67) "Tote" or "tote board" means the totalizator.

(68) "Unplaced" means a horse that finishes a race outside the pari-mutuel payoff.

(69) "Walkover" means a race in which the only starter or all starters represent single ownership.

(70) "Weigh in" means in flat racing the presentation of a jockey to the clerk of scales for weighing after a race.

(71) "Weigh out" means in flat racing the presentation of a jockey to the clerk of scales for weighing prior to a race.

FRANKLIN S. KLING, Jr., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: February 15, 2019

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:010. Horses.

RELATES TO: KRS 230.215

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations regulating horse racing in Kentucky. This administrative regulation establishes requirements for the participation of horses in horse race meetings, protects the safety and welfare of the horse, and creates a level playing field for participants thereby protecting the integrity of pari-mutuel wagering.

Section 1. Definition. "Electronic registration system" means a software application available online and approved by the commission that allows an association's racing secretary ***or the secretary's designee, or horse identifier or the identifier's designee[, or his designee, or horse identifier, or his designee]***, full access to horse and trainer records from all tracks in North America, including current owner information.

Section 2. Registration and Identification Required.

(1) A horse shall not be entered or raced in this state unless:

(a) The horse is duly registered, as applicable, in The Jockey Club breed registry, the American Quarter Horse Association, the Appaloosa Horse Club, the Arabian Horse Association Registry, or the American Paint Horse Association, or their respective successors; and

(b)1. The registration certificate, virtual certificate, or racing permit issued by the applicable breed registry for the horse is on file with the racing secretary; or

2. The information contained on the registration certificate, virtual certificate, or racing permit is available to the racing secretary through the electronic registration system.

(2) The stewards may at any time require presentation of a horse's registration certificate, virtual certificate, or racing permit or other proof of ownership.

(3) Upon claim, sale, or any other transfer of ownership, the horse's registration certificate or racing permit shall be given to the new owner, and any virtual certificate shall be transferred to the new owner electronically. The new owner shall report the change in ownership to the stewards.

(4) If the electronic registration system fails for any reason, the stewards may require presentation of a horse's registration certificate or racing permit prior to a horse being entered or raced in Kentucky.

Section 3. Ringers Prohibited.

(1) A horse shall not be entered or raced in this state designated by a name other than the name under which the horse is currently registered with the applicable breed registry. If a horse's name is changed with the applicable breed registry, and the horse has raced under its previous name, the horse's former name shall be shown parenthetically in the daily race program the first three (3) times the horse races after the name change.

(2) A person shall not cause or permit the correct identity of a horse to be concealed or altered. A person shall not refuse to reveal the correct identity of a horse that he ***or she*** owns or is in his ***or her*** care to a racing official or member of the regular news media.

(3) A horse shall not race in this state unless identified by:

(a) A legible lip tattoo number applied by agents of the Thoroughbred Racing and Protective Bureau, or by the comparable authorized organization applicable to the breed of the horse;

(b) An electronic horse identification microchip that accurately identifies the horse and is compliant with the international standards ISO 11784; or

(c) With regards to a horse from a foreign jurisdiction participating in a graded stakes race, has otherwise been correctly identified to the stewards' satisfaction.

(4) A horse shall not be entered or raced in this state if previously involved in a "ringer" case to the extent that:

(a) A person having control of the horse knowingly entered or raced the horse while designated by a name other than the name under which the horse was registered with The Jockey Club; or

(b) The person having control of the horse participated in or assisted in the entry or racing of some other horse under the name registered as belonging to the horse in question.

Section 4. Denerving.

(1) A horse that has had a chemical, surgical, or thermal neurectomy at or above the fetlock shall not be permitted to race.

(2) A horse that has had a palmar or plantar digital neurectomy may be permitted to race if:

(a) The neurectomy has been reported by the trainer to the stewards; and

(b) The horse has been approved for racing by the commission veterinarian prior to being entered to race.

(3) A horse on which a neurectomy has been performed shall have that fact designated on its registration certificate, virtual certificate, racing permit, and entry in the electronic registration system. Responsibility for ensuring that the neurectomy is correctly noted on the horse's registration certificate, virtual certificate, racing permit, and entry in the electronic registration system shall fall:

(a) Jointly on the practicing veterinarian who performed the operation and the trainer of the denerved horse if the neurectomy was performed at a location under the commission's jurisdiction; and

(b) Solely on the owner of the denerved horse if the neurectomy was performed at a location not under the commission's jurisdiction.

(4) If a horse races in violation of this administrative regulation and participates in the purse distribution, then a protest shall not be considered unless submitted in writing to the stewards within forty-eight (48) hours after the race.

(5) If a horse races in violation of this administrative regulation and is claimed, then a protest shall not be considered unless the successful claimant submits a protest in writing within forty-eight (48) hours after the race requesting the claim be voided. If the claim is voided, the horse shall be returned to the owner who started the horse in the race, and the claim price shall be returned to the claimant.

(6) A list of all denerved horses shall be posted in the racing secretary's office.

Section 5. Health Certificate Required.

(1) A horse shall not be stabled on the grounds of a licensed association or any training center under the jurisdiction of the commission unless a Certificate of Veterinary Inspection is issued by an accredited veterinarian:

(a) Not more than ten (10) days prior to the horse's arrival on the grounds; or

(b) Within a lesser interval as prescribed by the racing association in consultation with the State Department of Agriculture.

(2) Notice of this requirement shall be included in the stall application of all licensed associations and training centers under the jurisdiction of the commission and all condition books of licensed associations.

Section 6. Workouts. A horse shall not be schooled in the paddock or taken onto a track on association grounds for training or workout, other than during normal training hours posted by the association, without special permission of the stewards.

Section 7. Thoroughbred Age Restrictions.***[(1)]*** A maiden six (6) years of age or older that has made five (5) life time starts on the flat shall not be entered or start.***[(2) A first time starter four (4) years of age or older shall be approved by a commission veterinarian prior to entry.]***

Section 8. Other Age Restrictions. A quarterhorse, paint horse, Arabian, or Appaloosa horse six (6) years of age or older shall not be entered or raced in a race restricted to maidens. A horse thirteen (13) years of age or older shall not be entered or raced.

Section 9. Fillies and Mares Bred.

(1) A filly or mare that has been covered by a stallion ***shall***:

(a)***[Shall]*** Be so reported to the racing secretary prior to being entered in a race; and

(b)***[Shall]*** Not be entered in a claiming race, unless a written release from the stallion owner is attached to the filly's or mare's registration certificate, or otherwise provided to the stewards, indicating that the stallion service fee has been paid or satisfied.

(2) A list of all fillies and mares so reported, showing the names of stallions to which they have been bred, shall be posted in the racing secretary's office.***[(3) A filly or mare in-foal shall not be entered in a race 120 days or more after the date of last cover.]***

Section 10. Serviceable for Racing. A horse shall not be entered or raced that:

(1) Is not in serviceable, sound racing condition. The stewards may at any time require a horse on association grounds to be examined by a qualified person;

(2) Is posted on a veterinarian's list, stewards' list, or starter's list in any racing jurisdiction;***[(3) Has previously raced, but has made no starts in the last 365 days or more, unless approved by a commission veterinarian prior to entry.]***

(3) Is suspended in any jurisdiction;

(4) Has been administered any drug in violation of 810 KAR 8:010;

(5) Is blind or has seriously impaired vision in both eyes;

(6) Is not correctly identified to the satisfaction of the stewards; or

(7) Is owned wholly or in part by or is trained by an ineligible person.

Section 11. Equipment.

(1) Riding crops and blinkers shall be used consistently on a horse ***while racing***.

(2) Permission to change use of any equipment used on a horse from its previous start shall be obtained from the stewards.

(3) A horse's tongue may be tied down during a race with a clean bandage or gauze.

(4) A horse's bridle shall not weigh more than two (2) pounds.

(5) Bits shall be of a metallic alloy base of stainless steel or aluminum and may be encased in rubber, plastic, or leather.

(6) War bridles and bitless bridles shall not be used.

(7) Bar shoes may be used for racing only with permission of the stewards.

(8) Any goading device, chain, spurs, electrical or mechanical device, or appliance, except for a riding crop, that ***can[may]*** be used to alter the speed of a horse shall not be used on a horse in a race or workout.

(9)(a) Any riding crop ***shall[may]*** be subject to inspection and approval by the stewards or the clerk of the scales to ensure conformity with the specifications of paragraphs (c) through (e) of this subsection.

(b) Only riding crops meeting the specifications of this subsection, including the mandatory shock absorbing characteristics, may be used in thoroughbred racing and training.

(c) A riding crop shall have a:

1. Maximum weight of eight (8) ounces;

2. Maximum length, including flap, of thirty (30) inches; and

3. Minimum diameter of the shaft of three-eighths (3/8) inch.

(d)1. The only additional feature that may be attached to the riding crop is a flap that shall have a:

a. Maximum length from the end of the shaft of one-half (1/2) inch; and

b. Maximum width of one and six-tenths (1.6) inches, with a minimum width of eight-tenths (0.8) inch;

2. The flap from the end of the shaft shall not contain any reinforcements or additions;

3. There shall not be binding within seven (7) inches of the end of the flap;

4. The contact area of the shaft shall be smooth, with no protrusion or raised surface, and covered by shock absorbing material throughout its circumference; and

5. The flap shall have similar shock absorbing characteristics to that of the contact area.

(e) A riding crop shall not have:

1. Stingers or projections extending through the hole of a popper; and

2. Any metal parts.

(10)(a) The following shall not be used on the front shoes of horses while racing or training on any racing surface:

1. Horse shoes that have toe grabs;
2. Bends;
3. Jar calks;
4. Stickers; and
5. Any other traction device worn on the front shoes of horses.

(b) Wear plates with a height no greater than two (2) millimeters may be used on the front shoes of horses while racing or training.

(11) Indiscriminate or brutal use on a horse of a riding crop or any other equipment, as determined by the stewards, at any time on the grounds of a licensed racing association or training center under the jurisdiction of the commission shall be prohibited.

Section 12. Sex Alteration. Any alteration in the sex of a horse shall be reported by the horse's trainer to the racing secretary and to the appropriate breed registry applicable to the horse. The alteration shall be noted on the horse's registration certificate, racing permit, virtual certificate, or entry in the electronic system.

Section 13. Reporting Death of Horse. A licensed racing association or training center under the jurisdiction of the commission shall report the death or euthanization of any horse on its grounds immediately to the chief commission veterinarian.

Section 14. Postmortem Examination. A horse that dies or is euthanized on the grounds of a licensed association or training center under the jurisdiction of the commission shall undergo a postmortem examination at the discretion of the commission. If a postmortem examination is conducted:

(1) All shoes and equipment on the horse's legs shall be left on the horse;

(2) The commission, through its designee:

(a) Shall take possession of the horse upon death;

(b) Shall, if commission personnel are present, collect and submit for analysis blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization occurs; and

(c) Shall coordinate with the owner or owner's licensed authorized agent to determine and address any insurance requirements.

(3) The remains of the horse shall not be returned after completion of the postmortem examination.

(4) The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation of 810 KAR 8:010.

Section 15. Incorporation by Reference.

(1) "ISO 11784", ***2004[1996/Amd.1:2004]*** is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:020. Weights.

RELATES TO: KRS 230.215, 230.260

STATUTORY AUTHORITY: KRS 230.215(2), 230.260

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the commission to promulgate administrative regulations prescribing conditions under which all horse racing is conducted in the Commonwealth. This administrative regulation provides the requirements for assigning weights to a horse in a race.

Section 1. Weight Assignments for Horses.

(1) Weight allowance shall be claimed at time of entry and shall not be waived after the posting of entries, except by consent of the stewards.

(2) A horse shall start with only the weight allowance to which it is entitled at the time of starting, regardless of its allowance at time of entry.

(3) Weight penalties shall be mandatory. A horse incurring a weight penalty for a race shall not be entitled to any weight allowance for that race. A horse not entitled to the first weight allowance in a race condition shall not be entitled to any subsequent allowance specified in the race conditions.

(4) Claim of weight allowance to which a horse is not entitled shall not disqualify the horse, unless protest is made in writing and lodged with the stewards at least one (1) hour before post time.

(5) A horse shall not incur a weight penalty or be barred from any race for having been placed second or lower in any race. A horse shall not be given a weight allowance for failure to finish second or lower in any race.

(6)(a) Except as ***established[provided]*** in paragraph (b) of this subsection, a horse shall not receive weight allowance and shall not be relieved of extra weight for having been beaten in one (1) or more races.

(b) A horse may receive weight allowances if it has not won a race within a specified period or a race of a specified value as set forth in the race conditions.

(7) Penalties incurred and allowances due in steeplechase or hurdle races shall not apply to races on the flat, and vice versa.

(8) In determining eligibility, allowances, and penalties, the reports, records, and statistics as recorded in racing publications shall be considered official, but may be corrected by the publisher up to forty-five (45) minutes prior to post time of the race.

(9) A maiden winning at an unrecognized meeting shall lose the maiden condition. All other horses winning at unrecognized meetings shall not be considered winners for weight allowance or eligibility in races run thereafter under the jurisdiction of the commission.

(10) A thoroughbred horse shall not be assigned a weight of less than 118 pounds, unless:

(a) Apprentice allowance is claimed;

(b) The horse is assigned a weight of less than 118 pounds in a handicap race by the racing secretary;

(c) The horse is a three (3) year old entered to run in a race against horses four (4) years old and older from January 1st through September 1**,** in which case the horse shall not be assigned a weight less than 116 pounds; or

(d) The filly and mare weight allowance in subsection (11) applies.

(11) Except in handicaps, thoroughbred fillies two (2) years old shall be allowed three (3) pounds, and thoroughbred fillies and mares three (3) years old and older shall be allowed five (5) pounds before September 1, and three (3) pounds thereafter in a race that includes horses of the opposite sex.

(12) **[~~Thoroughbred and~~]**Arabian minimum scale weights shall be 120 pounds for two (2) year-olds, 122 pounds for three (3) year-olds, and 124 pounds for four (4) year-olds and older.

(13) Quarter Horse, Appaloosa, and Paint Horse minimum scale weights shall be **124[~~one hundred twenty-two (122)~~]** pounds for two-year-olds, **126[~~one hundred twenty-four (124)~~]** pounds for three-year-olds, and **128[~~one hundred twenty-six (126)~~]** pounds for four-year-olds and older.

(14) Five (5) pounds shall be the limit of overweight any horse is permitted to carry.

Section 2. Jockey Weight Procedures and Requirements.

(1) Jockeys shall be weighed out for their respective mounts by

the clerk of scales not less than fifteen (15) minutes before post time. Only valets furnished by the association shall assist a jockey in weighing out.

(2) A jockey's weight shall include:

(a) Clothing;

(b) Boots;

(c) Saddle and its attachments; and

(d) Any other equipment except as specified in this subsection.

(3) A jockey's weight shall not include:

(a) Riding crop;

(b) Bridle;

(c) Bit;

(d) Reins;

(e) Safety helmet;

(f) Safety vest;

(g) Blinkers;

(h) Goggles;

(i) Over-girth;

(j) Breast collar; and

(k) Number cloth.

(3) After a race has been run, the jockey shall ride promptly to the finish line, dismount, and present himself to the clerk of scales to be weighed in. The jockey shall carry to the clerk of scales all pieces of equipment with which he or she weighed out. The post-race weighing of a jockey shall include any sweat, dirt, and mud that have accumulated on the jockey, jockey's clothing, jockey's safety helmet, jockey's safety vest, and over-girth.

(4) Each jockey shall weigh in at no less than the weight at which he or she weighed out. If short, the stewards shall investigate and if warranted take disciplinary action against the individual or individuals responsible for the violation, including disqualification of the horse from receiving what would otherwise be its share of the purse.

(5) If a jockey is prevented from riding his ***or her*** mount to the finish line because of an accident or illness either to himself or his mount, the jockey may walk or be carried to the scales, or the jockey may be excused by the stewards from weighing in.

(6) A notice shall be included in the daily program that:

(a) Each jockey shall carry approximately three (3) pounds more than the published weight to account for safety helmets and safety vests not included in required weighing out procedures; and

(b) Upon approval of the stewards, a jockey may be allowed up to three (3) pounds additional clothing and equipment for inclement weather or track conditions.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:030. Entries, subscriptions, and declarations.

RELATES TO: KRS 230.215, 230.240, 230.290, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which all horse racing is conducted in Kentucky. KRS 230.260(8) grants the commission the authority to regulate conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for entry, subscription, and declaration of horses in order to race.

Section 1. Definition. "Subscriber" means an owner who enters a horse into a stakes race and pays the requisite entry fee.

Section 2. Entering Required. A horse shall not be qualified to start in any race unless it has been, and continues to be, entered in the race. Entries or subscriptions for any horse, or the transfer of entries or subscriptions for any horse, may be refused or cancelled by the association without notice or reason given.

Section 3. Procedure for Making Entries.

(1) An entry, subscription, declaration, or scratch shall be filed with the racing secretary and shall not be effective until received by the racing secretary. The racing secretary shall maintain a record of the time of receipt of an entry, subscription, declaration, or scratch for a period of ***at least*** one (1) year.

(2) An entry shall be made by the owner, the trainer, or an authorized agent of the owner or trainer. An entry shall be in the name of a horse's licensed owner, as completely disclosed and registered with the racing secretary pursuant to ***subsection (3) of this section[~~810 KAR 2:030~~]***.

(3) An entry shall be submitted in writing or by telephone to the racing secretary. A telephone entry shall be confirmed promptly in writing if requested by the stewards, the racing secretary, or an assistant to the racing secretary.

(4) An entry shall clearly designate the horse entered as reflected by its registration certificate, racing permit, or virtual certificate.

(a) A horse shall not race unless registered pursuant to 810 KAR 4:010 or otherwise correctly identified to the satisfaction of the stewards.

(b) Establishing the identity of a horse shall be the responsibility of its owner and of any other person required to certify the identity of the horse. A person shall be subject to appropriate disciplinary action under 810 KAR 8:030 for incorrect identification.

(5) The entry shall indicate usage of furosemide pursuant to 810 KAR 8:010.

(6) An entry shall not be altered after the closing of entries, except to correct an error with permission of the stewards.

(7) A horse shall not be entered in two (2) races to be run on the same day.

(8)(a) A horse that has not started in the past forty-five (45) days shall not be permitted to start unless it has at least one (1) published workout within twenty (20) days of entry at a distance satisfactory to the stewards. If a horse has performed the requisite workout, but the workout does not appear in the past performances, the horse shall be permitted to start if the stewards determine that the workout failed to be published through no fault of the trainer.

(b) A horse starting for the first time shall not be permitted to start unless it has three (3) workouts, one (1) of which is from the starting gate, one (1) of which is within twenty (20) days of entry, and at least one (1) of which is published.

(c) A workout not appearing in the official program shall be publicly displayed on television monitors, the tote board, and, if available, the bulletin boards where photo finishes are shown at the time when mutuel windows are opened and shall be displayed until the conclusion of the race in which the horse is entered.

(d) A horse that has never started shall not be entered until the trainer has produced a document or card issued by the starter indicating that the horse has been adequately trained to race from the starting gate.

(9) If the published conditions of the race permit, an association may accept in a turf race an entry designated "main track only." Preference shall apply to all horses drawn into a race, except that horses entered as "main track only" shall be listed as also-eligible and be considered only if the race is taken off the turf.

Section 4. Limitation as to Spouses.

(1) An entry in a race shall not be accepted for a horse owned wholly or in part or trained by a person whose spouse is under license suspension, revocation, or is otherwise ineligible to be licensed, at the time of the entry except as ***established[~~provided~~]***

in subsection (2) of this section.

(2) If the license of a jockey has been suspended for a routine riding offense, depending on the severity of the offense, the stewards may waive the application of this section as to the licensed spouse of the suspended jockey.

Section 5. Mutuel Entries.

(1) More than two (2) horses having common ties through training shall not be entered in a purse race.

(2) Horses entered in the same race and owned wholly or in part by the same owner or spouse, shall be joined as a mutuel entry and single betting interest, except as ***established[~~provided~~]*** in subsection (5) of this section.

(3) More than two (2) horses having common ties through ownership shall not be joined as a mutuel entry in a purse race. If making a double entry of horses owned wholly or in part by the same owner or spouse, a preference for one (1) of the horses shall be made.

(4)(a) Two (2) horses having common ties through ownership shall not start in a purse race to the exclusion of a single entry, unless the horses have been uncoupled pursuant to subsection (5) of this section.

(b) In a purse race, the racing secretary may uncouple entries having common ties through training to make two (2) separate betting interests.

(5) In any stakes race with added money of $50,000 or more, the racing secretary may uncouple mutuel entries of horses sharing common ties through training or ownership or both.

Section 6. Subscriptions.

(1) A subscriber to a stakes race may transfer or declare a subscription prior to the closing of entries for the race.

(2) Joint subscriptions and entries may be made by any one (1) of the joint owners of a horse. Each owner shall be jointly and severally liable for all payments due.

(3) Death of a horse or a mistake in its entry if the horse is eligible shall not release the subscriber or transferee from liability for all stakes fees due. Fees paid in connection with a subscription to a stakes race that is run shall not be refunded, except as otherwise stated in the conditions of the stakes race.

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) If a horse is sold privately, sold at public auction, or claimed, stakes engagements for it shall be transferred automatically with the horse to its new owner. If the horse is transferred to a person whose license is suspended, revoked, or is otherwise ineligible to be licensed, the subscription shall be void as of the date of the transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner unless otherwise provided by the condition for the stakes race. If a stakes race is cancelled for any reason, all subscription fees paid shall be refunded.

Section 7. Closings.

(1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for the races.

(a) If a race is not split, an entry, subscription, or declaration shall not be accepted after closing time.

(b) If a purse race fails to fill, or in an emergency, the racing secretary may extend the closing time, if the approval of a steward has been obtained.

(2) Entries that have closed shall be compiled without delay by the racing secretary and shall be posted along with declarations.

Section 8. Number of Starters in a Race.

(1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and any extensions approved by the commission as can be positioned across the width of the track at the starting point for the race. The maximum number of starters further shall be limited by the number of horses that, in the opinion of the stewards after considering the safety of the horses and riders and the distance from the start to the first turn, may be afforded a fair and equal start.

(2)(a) A maiden, starter, or claiming race shall be run if:

1. Eight (8) or more horses are entered;
2. The horses entered represent different betting interests; and
3. The race is listed in the printed condition book.

(b) Except as ***established[~~provided~~]*** in paragraph (c) of this subsection, any other purse race shall be run if:

1. Six (6) or more horses are entered;
2. The horses entered represent different betting interests; and
3. The race is listed in the printed condition book.

(c) If a purse race under paragraph (b) of this subsection includes two (2) horses having common ties through training, the race shall be run if eight (8) or more horses are entered.

(3) If a purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (2) of this section, the association may cancel or declare the race off. The names of all horses entered in the race shall be publicly posted in the office of the racing secretary on the date of entry.

Section 9. Split or Divided Races.

(1) If a race is cancelled or declared off, the association may split any race programmed for the same day that may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) If a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice of the split not less than fifteen (15) minutes before the races are closed in order to grant time for the making of additional entries to the split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions were made and the conditions established in ***paragraphs (a) through (c) of*** this subsection.

(a) Horses originally joined as a mutuel entry may be placed in different divisions of a split race unless the person making the multiple entry, at the time of the entry, indicates the coupling of horses is not to be uncoupled if the race is split.

(b) Division of entries in any split stakes race may be made according to age, sex, or both.

(c) Entries for any split race not divided by any method provided for in this administrative regulation shall be divided by lot so as to provide a number of betting interests as nearly equal as possible for each division of the split race.

Section 10. Post Positions.

(1) Post positions for all races shall be determined by lot, except as ***established[~~described~~]*** in Section 11(5) of this administrative regulation. Owners, trainers, and their representatives shall have the opportunity to be present at the drawing.

(2) The racing secretary shall assign program numbers for each starter to conform with the post position drawn, except if a race includes two (2) or more horses joined as a single betting interest.

Section 11. Also-Eligible List.

(1) If the number of entries for a race exceeds the number of horses permitted to start, as ***established[~~provided~~]*** by Section 8 of this administrative regulation, the names of no more than eight (8) horses entered but not drawn into the race as starters shall be posted on the entry sheet as "also-eligible" to start.

(2) After a horse has been excused from a race at scratch time, also-eligible horses shall be drawn into the body of the race based on preference. If preference is equal, horses shall be drawn by lot, unless otherwise stipulated in the conditions of the race.

(3)(a) An owner or trainer of a horse on the also-eligible list not wishing to start the horse in a race shall notify the racing secretary prior to scratch time for the race. The horse shall forfeit any preference to which it may have been entitled.

(b) If there are no scratches in the body of a race, a horse on the also-eligible list not drawn into the race shall retain its

previously established preference.

(4) A horse on the also-eligible list for a race on the present day that has been drawn into the body of a race on the succeeding race day, shall not be permitted to run in the race on the present day for which it had been listed as also-eligible. This shall not include stakes and handicaps.

(5) A horse on the also-eligible list shall be assigned a post position by preference. If preference is equal, post positions shall be drawn by lot, unless otherwise stipulated in the published conditions of the race.

Section 12. Preferred List.

(1) The racing secretary shall maintain a list of horses that were entered but denied an opportunity to race because they were eliminated from a race included in the printed condition book either by overfilling or failure to fill.

(2) The racing secretary shall submit, for approval of the commission at least thirty (30) days prior to the opening date of a race meeting, a detailed description of the manner in which preference will be allocated.

(3) Preferences shall not be given to a horse otherwise eligible for a race if it is also entered for a race on the succeeding race day. This shall not include stakes and handicaps.

Section 13. Arrears. Unless approved by the racing secretary, a horse shall not be entered or raced unless its owner has paid all stakes fees owed.

Section 14. Declarations.

(1) Declarations shall be made in the same form, time, and procedure as required for the making of entries.

(2) Declarations shall be irrevocable.

(3) A declaration fee shall not be required by any licensed association.

Section 15. Scratches.

(1) Scratches shall be irrevocable and shall be permitted under the conditions established in this section.

(a) Except as ***established[~~provided~~]*** in paragraph (b) of this subsection, a horse may be scratched from a stakes race for any reason at any time until four (4) hours prior to post time for the race by obtaining approval from the stewards. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of the scratch to be made.

(b) If a list of also-eligible horses has been drawn, scratches shall be filed at the regular scratch time as posted by the racing secretary. Thereafter, a horse shall not be scratched unless:

1. A valid physical reason exists; or

2. The scratch is related to adverse track conditions or change of racing surface.

(c) A horse shall not be scratched from a purse race unless:

1. The approval of the stewards has been obtained; and

2. Intention to scratch has been filed in writing with the racing secretary or ***the secretary's[~~his~~]*** assistant at or before scratch time.

(2) A scratch of one (1) horse coupled in a mutuel entry in a purse race shall be made at or before scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time.

(3) In a purse race, a horse that is physically disabled or sick shall be permitted to be scratched first. If horses representing more than eight (8) betting interests remain in after horses with physical excuses have been scratched, an owner or trainer may***[~~be permitted to~~]*** scratch horses without physical excuses at scratch time, down to a minimum of eight (8) betting interests. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) A horse that has been scratched or excused from starting by the stewards because of a physical disability or sickness shall be placed on the commission's veterinarian list for six (6) calendar days beginning the day after the horse was scratched or excused.

(5) Each association shall keep records and statistics documenting the effect upon field sizes of the six (6) day veterinarian list requirement in subsection (4) of this section. Records and statistics kept pursuant to this section shall be retained by the licensed racing association for ***at least*** one (1) year.

Section 16. Official Publication Statistics. In determining eligibility, allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form or similar publication as the commission considers appropriate to advise the public and the monthly chart books, or corresponding official publications of any foreign country, shall be considered official, but may be corrected until forty-five (45) minutes prior to post time of the race.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:040. Running of the race.

RELATES TO: KRS 230.215(2), 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation sets forth the standards and requirements governing the running of a horse race.

Section 1. Post Time. Post time for the first race on each racing day shall be approved by the commission. Post time for subsequent races on the same program shall be fixed by the pari-mutuels manager. No race shall start after 11:55 p.m.

Section 2. Horses in Paddock Not to be Touched. Only the following persons may touch a horse while in the paddock:

(1) Licensed owner;
(2) Licensed trainer;
(3) Authorized stable personnel;
(4) Paddock judge;
(5) Horse identifier;
(6) Assigned valet;
(7) Steward;
(8) Farrier; or
(9) Outrider.

Section 3. Trainer Responsibility. The trainer shall be responsible for:

(1) Arrival in the paddock, at the time prescribed by the paddock judge, of each horse entered;

(2) Supervising the saddling of each horse entered; and

(3) Providing his or her assistant trainer or another licensed trainer to serve as a substitute if absent from a track where the trainer's horses are participating in races.

Section 4. Withdrawal of a Horse. A horse whose starting is mandatory shall run the course, except that the stewards may order the withdrawal of a horse at any time up to the actual start of a race.

Section 5. Walkover. If at the time for saddling, only one (1) horse, or horses owned by only one (1) stable, will be weighed out,

the horse or horses of single ownership shall be ridden past the stewards' stand, go to the post**,** and then move over the course before determination of the winner.

Section 6. Parade to the Post; Time.

(1) All horses shall parade and carry their declared weight from the paddock to the starting post.

(a) The parade shall pass the stewards' stand.

(b) After passing the stewards' stand once, horses may break formation and canter, warm up, or go as they please to the post.

(c) With the permission of the stewards, a horse may be excused from parading with the other horses.

(2) The parade to the post shall not exceed twelve (12) minutes from the time the field enters upon the track, except in cases of unavoidable delay.

(3) If a jockey is thrown on the way to the post:

(a) The jockey shall remount at the point at which thrown; or

(b) If the jockey is so injured as to require a substitute jockey, the horse shall be returned to the paddock where the horse shall be remounted by a substitute jockey.

Section 7. Lead Pony. A horse may be led to the post by a lead pony. Lead ponies may be excluded from the paddock or walking ring, at the discretion of the stewards.

Section 8. Control of Horses and Jockeys by Starter. Horses and jockeys shall be under the control of the starter from the moment they enter the track until the race is started.

(1) The starter may grant a delay if an injury occurs to any jockey or if a jockey's equipment malfunctions. During the delay, the stewards may require all jockeys to dismount.

(2) The starter shall unload the horses in the gate when instructed by the stewards if:

(a) A horse breaks through the gate or unseats its jockey after any of the field is loaded in the starting gate; and

(b) The horse is not immediately taken in hand by the outrider and brought back for reloading.

(3) The starter shall reload the horses in their proper order upon order of the stewards.

(4) The starter shall report all causes of delay to the stewards.

(5) A person other than the jockey, starter, or assistant starter shall not strike a horse or attempt, by shouting or other means, to assist the horse in getting a start.

Section 9. Starting Gate. Races on the flat shall use a starting gate approved by the commission unless exempted by the stewards. Exempted races shall not start until the assistant starter has dropped the flag in answer to the starter.

Section 10. Horses Left at Post.

(1) If a door at the front of the starting gate fails to open properly and timely when the starter dispatches the field, or if a horse has inadvertently not been loaded in the starting gate when the field is dispatched, thereby causing the horse to be left at the post, the starter shall immediately report the circumstance to the stewards who shall:

(a) Immediately post the "inquiry" sign;

(b) Advise the public to hold all pari-mutuel tickets; and

(c) Determine, after consulting with the starter and viewing the ***race replay[patrol films or video tapes]***, whether ***or not*** the horse was precluded from obtaining a fair start.

(2) If the stewards determine that the horse was precluded from obtaining a fair start, the stewards shall rule the horse a nonstarter and shall order money wagered on the horse deducted from the pari-mutuel pool and refunded to holders of pari-mutuel tickets on the horse, unless the horse ruled a nonstarter is part of a mutuel entry and another horse in the entry is not left at the post, in which case there shall not be a pari-mutuel refund.

(3) Stakes fees for a ruled nonstarter shall be refunded to the owner.

(4) The starter may, in his or her discretion, place an unruly or fractious horse on the outside of the starting gate and one (1) length behind the starting line. If the horse so stationed outside the starting gate by the starter dwells or refuses to break with the field and is thereby left at the post, there shall not be a refund of pari-mutuel wagers on the horse nor refund of stakes fees paid for the horse.

Section 11. Horses Failing to Finish. Any horse that starts in a race but does not cross the finish line or is not ridden across the finish line by the jockey with whom it starts the race shall be declared unplaced and shall receive no portion of the purse money.

Section 12. Fouls. ***(1)*** A leading horse if clear is entitled to any part of the track.

(2) If a leading horse or any other horse in a race swerves or is ridden to either side so as to interfere with, intimidate, or impede any other horse or jockey, or to cause the same result, this action shall be deemed a foul.

(3) If a jockey strikes another horse or jockey, it is a foul.

(4) If**,** in the opinion of the stewards**,** a foul alters the finish of a race, an offending horse may be disqualified by the stewards.

Section 13. Stewards to Determine Foul Riding.

(1) A jockey shall make ***a[his]*** best effort to control and guide his ***or her*** mount in such a way as not to cause a foul.

(2) The stewards shall take cognizance of riding that results in a foul, irrespective of whether ***or not*** an objection is lodged.

(3) If**,** in the opinion of the stewards**,** a foul is committed as a result of a jockey not making ***a[his]*** best effort to control and guide his ***or her*** mount to avoid a foul, whether ***or not*** intentionally or through carelessness or incompetence, the jockey may be penalized at the discretion of the stewards.

Section 14. Horses to be Ridden Out. ***(1)*** Every horse in every race shall be ridden so as to win or finish as near as possible to first and demonstrate the best and fastest performance of which it is capable at the time.

(2) A horse shall not be eased up without adequate cause, even if it has no apparent chance to earn a portion of the purse money.

(3) A jockey who unnecessarily causes a horse to shorten stride may be penalized at the discretion of the stewards.

(4) Stewards shall take cognizance of any marked reversal of form of a horse and shall conduct inquiries of the licensed owner, licensed trainer, and all other persons connected with the horse.

(5) If the stewards find that the horse was deliberately restrained or impeded in any way or by any means so as not to win or finish as near as possible to first, any person found to have contributed to that circumstance may be penalized at the discretion of the stewards.

Section 15. Use of Riding Crops.

(1) Although the use of a riding crop is not required, a jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his or her best efforts to win.

(2) In any race in which a jockey will ride without a riding crop, an announcement of that fact shall be made over the public address system.

(3) An electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than a riding crop approved by the stewards pursuant to 810 KAR 4:010, Section 11 shall not be possessed by anyone, or applied by anyone to a horse at any time at a location under the jurisdiction of the racing commission.

(4) A riding crop shall not be used on a two (2) year-old horse in races before April 1 of each year.

(5) A riding crop shall only be used for safety, correction**,** and encouragement.

(6) A rider who uses a riding crop shall:

(a) Show the horse the riding crop and give the horse time to respond before striking the horse;

(b) Having used the riding crop, give the horse a chance to respond before using it again; and

(c) Use the riding crop in rhythm with the horse's stride.

(7) A riding crop shall not be used to strike a horse:

(a) On the head, flanks**,** or on any other part of its body other than the shoulders or hind quarters except if necessary to control a horse;

(b) During the post parade or after the finish of the race except if necessary to control the horse;

(c) Excessively or brutally;

(d) Causing welts or breaks in the skin;

(e) If the horse is clearly out of the race or has obtained its maximum placing; and

(f) Persistently even though the horse is showing no response under the riding crop.

(8) A riding crop shall not be used to strike another person.

(9) After the race, a horse may be subject to inspection by a racing official or official veterinarian looking for cuts, welts**,** or bruises in the skin. Any adverse findings shall be reported to the stewards.

(10) The giving of instructions by any licensee that**,** if obeyed**,** would lead to a violation of this section may result in disciplinary action also being taken against the licensee who gave the instructions.

Section 16. Other Means of Altering Performance. An electrical or mechanical appliance, other than a riding crop, shall not be used to affect the speed of a horse in a race or workout. A sponge or other object shall not be used to interfere with the respiratory system of a horse. Use or nonuse of ordinary racing equipment shall be consistent and any change of equipment shall be approved by the stewards.

Section 17. Official Order of Finish as to Pari-mutuel Payoff. ***Once[~~When~~]*** satisfied that the order of finish is correct and that the race has been properly run in accordance with the rules and ***KAR Titles 810 and 811[~~administrative regulations of the commission~~]***, the stewards shall order that the official order of finish be confirmed and the official sign posted for the race. The decision of the stewards as to the official order of finish for pari-mutuel wagering purposes ***shall be final.[~~is final~~]*** and no subsequent action shall set aside or alter the official order of finish for the purposes of pari-mutuel wagering.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:050. Claiming races.

RELATES TO: KRS 230.215, 230.260

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes conditions for claiming races.

Section 1. (1) In claiming races a horse shall be subject to claim for its entered price by a licensed owner in good standing, ***an authorized agent,*** or by the holder of a claiming license. The procedure for obtaining a claiming license shall be as ***established in paragraphs (a) and (b) of this subsection and subsection(2) of this section.[~~follows:~~]***

(a) An applicant shall, fifteen (15) days prior to entering a claim, submit:

1. An application for ***a claiming[~~owners' original~~]*** license;

2. A financial statement;

3. To a background check, if requested by the commission;

4. The name of a licensed trainer, or person eligible to be licensed as a trainer, who will assume care and responsibility for the horse claimed; and

5. The requisite fee for a claiming license.

(b) The claiming license shall be valid for the remainder of the calendar year.

(2) ***Authorized agent.***

(a)***[~~A claim may be made by an authorized agent.~~***

~~(b)~~] An agent ***shall[~~may~~]*** claim only for the account of those for whom he ***or she*** is licensed as agent.

(b)[~~(c)~~] The name of the authorized agent and the name of the owner for whom the claim is being made shall appear on the Claim ***Blank[~~slip~~]***.

(3)(a) A person shall not claim his ***or her*** own horse or cause his ***or her*** own horse to be claimed, directly or indirectly, for his ***or her*** own account.

(b) A claimed horse shall not remain in the same stable or under the care or management of the owner or trainer from whom it is claimed.

(4)(a) A person shall not claim more than three (3) horses from a race.

(b) Multiple claims submitted by the same ***owner,*** authorized agent***, or[~~and/or~~]*** trainer for a single horse shall not be permitted and shall be void.

(5)(a) A claimed horse shall not run for thirty (30) days after being claimed in a race in which the determining eligibility price is less than twenty-five (25) percent more than the price for which the horse was claimed.

(b) The day following the day the horse is claimed shall be the first day for purposes of the thirty (30) day period;

(c) The claimed horse shall be entitled to enter ***as[~~whenever~~]*** necessary to permit it to start on the 31st calendar day following the claim.

(d) This subsection shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper, and starter allowance races.

(6)(a) A horse claimed in a claiming race shall not be sold or transferred, wholly or in part, within thirty (30) days after the day it was claimed, except in another claiming race.

(b) Unless the stewards grant permission for a claimed horse to enter and start at an overlapping or conflicting meeting in Kentucky, a horse shall not race elsewhere until the close of entries of the meeting at which it was claimed.

(7)(a) A claim shall be:

1. Made on commission ***["]***Claim Blank***["]***;

2. Sealed in ***a Claim Blank Envelope[~~an envelope supplied by the commission~~]***; and

3. Deposited in the association's claim box.

(b) The ***["]***Claim Blank***["]*** form and envelope shall be filled out completely and accurately.

(8)(a) Claims shall be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made.

(b) Money or its equivalent shall not be put in the claim box.

(c) A claim shall be valid if the claimant at the time of filing the claim has a credit balance in his ***or her*** account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax.

(9) The stewards, or their designated representative, shall:

(a) Open the claim envelopes for each race as soon as the horses leave the paddock en route to the post; and

(b) Check with the horseman's bookkeeper to ascertain whether ***or not*** the proper credit balance has been established with the association.

(10) If more than one (1) valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the stewards or their designated representative.

(11)(a) After the race has been run**,** a horse that has been claimed shall be delivered to the claimant.

(b) The claimant shall present written authorization for the claim from the racing secretary.

(c) After written authorization has been presented, horses that are sent to the detention area for post race testing shall be delivered.

(d) Other horses shall be delivered in the paddock.

(e) A person shall not refuse to deliver a horse claimed out of a claiming race to the person legally entitled to the horse.

(f) If the owner of a horse that has been claimed refuses to deliver the horse to the claimant, the horse shall be disqualified from further racing until delivery is made.

(12)(a) A claim shall be irrevocable.

(b) Title to a claimed horse shall be vested in the successful claimant from the time the horse is a starter***,[;]*** and the funds shall be transferred to the account of the previous owner, with ***the[~~said~~]*** funds immediately available for future claiming transactions.

(c) The stewards shall void the claim and return ***title to*** the horse to the original owner if:

1. The horse suffers a fatality during the running of the race or dies or is euthanized before leaving the track; or

2. The commission veterinarian determines the horse will be placed on the Veterinarian's List as bled, unsound, or lame before the horse is released to the successful claimant.

(d)[(c)] The stewards shall not void the claim if, prior to the race in which the horse is claimed, the claimant indicates on the claim blank that he or she elects to claim the horse regardless of whether ***or not*** the commission veterinarian determines the horse will be placed on the Veterinarian's List as bled, unsound, or lame.

(e)[(d)] A claimed horse shall run in the interest of and for the account of the owner from whom it is claimed.

(13) (a) A person shall not:

1. Enter or offer to enter into an agreement to claim or not to claim; or

2. Attempt or offer to attempt to prevent another person from claiming any horse in a claiming race.

(b) A person shall not attempt by intimidation to prevent anyone from running a horse in a claiming race.

(c) An owner or trainer shall not make an agreement with another owner or trainer for the protection of each other's horse in a claiming race.

(14)(a) A claim that does not comply with the provisions of this administrative regulation shall be void.

(b) The stewards shall be the judges of the validity of a claim.

(15) A person holding a lien of any kind against a horse entered in a claiming race shall record the lien with the racing secretary or horseman's bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be presumed that none exists.

(16) The engagements of a claimed horse pass automatically with the horse to the claimant.

(17) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

(18) (a) A claimed horse not otherwise selected by the stewards for post-race testing shall be subjected to post-race testing in blood for the presence of substances regulated by 810 KAR Chapter 8. The results of the test shall be reported to the chief state steward.

(b) If a test is positive for a substance associated with a Class A, B, or C penalty or for a TCO2 violation, the claim may be voided at the option of the claimant and the claimant shall be entitled to return of all sums paid for the claimed horse and of all expenses incurred after the date of the claim.

(c) While awaiting test results, a claimant ***shall***:

1.***[~~Shall~~]*** Exercise due care in maintaining and boarding a claimed horse; and

2.***[~~Shall~~]*** Not materially alter a claimed horse.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Claim Blank***", 11/2018***; and

(b) ***"Claim Blank Envelope", 11/2018[~~Claim Blank envelope~~]***.

(2) This material may be inspected***, copied, or obtained, subject to applicable copyright law,*** at Kentucky Horse Racing Commission, 4063 Iron Works Pike, Building B, Lexington Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:060. Objections and complaints.

RELATES TO: KRS 230.215, 230.260

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which racing is conducted in Kentucky. This administrative regulation establishes the requirements and procedures for lodging objections and complaints.

Section 1. Persons Eligible to Lodge Objections or Complaints.

(1) Except as ***established[~~provided~~]*** by subsection (2) of this section, an objection or complaint against a horse or jockey entered in a race shall be received only if lodged:

(a) In accordance with Sections 2 and 3 of this administrative regulation; and

(b) By the owner or authorized agent of the owner, the trainer, or the jockey of another horse engaged in the same race and whose horse suffered or ***could[~~may~~]*** suffer by the alleged violation of ***KAR Titles 810 or 811[~~an administrative regulation~~]***.

(2) An inquiry may also be made by a racing official.

Section 2. Procedures for Objections and Complaints.

(1) An objection as to interference or a foul occurring during the running of the race shall be lodged with the stewards orally or by telephone. All other objections or complaints shall be made in writing and be signed by the complainant.

(2) An objection or complaint lodged during a race meeting shall be addressed to the stewards. An objection or complaint lodged after the termination of a race meeting shall be addressed to the commission at the commission's general office.

(3) An objection or complaint once lodged shall not be withdrawn without permission of the stewards.

Section 3. Time for Lodging Objections or Complaints.

(1) Except as ***established[~~provided~~]*** by subsection (2) of this section, an objection or complaint based on one (1) of the following violations of KAR Title 810 shall be lodged by an aggrieved person within the time prescribed:

(a) At least one (1) hour before post time of the race, if the objection or complaint is based on incorrect weight allowance claimed for a horse entered to race;

(b) Before the race has been posted as official on the infield results board, if the objection or complaint is based on interference by a horse, improper course run by a horse, foul riding by a jockey, or any other matter occurring during and incident to the running of the race;

(c) Not later than one (1) year from the date the race was run, if the objection or complaint is based on fraudulent or willful misstatement in an entry under which a horse has run;

(d) Not later than forty-eight (48) hours after post time of the race, if the objection or complaint involves the claim of a horse or a

violation of 810 KAR 4:010, Section 4; and

(e) Within one (1) week after post time of the race, if the objection or complaint is based on any other violation of KAR Title 810.

(2) A steward may declare a horse ineligible or disqualified at any time.

Section 4. Final Determination of Objections to Acts in Race.

(1) The stewards shall:

(a) Make all findings of fact as to all matters occurring during and incident to the running of a race;

(b) Determine all objections and inquiries based on interference by a horse, improper course run by a horse, foul riding by a jockey, and all other matters occurring during and incident to the running of a race; and

(c) Determine the extent of disqualification, if any, of horses in a race for a foul committed during the race.

(2) Findings of fact and determination shall be final and shall not be subject to appeal.

(3) In determining the extent of disqualification, the stewards shall consider the seriousness and circumstances of the incident and may:

(a) Disqualify and place the offending horse, and any horses coupled with it as an entry, behind any horse that may have suffered by reason of the foul;

(b) Disqualify and declare the offending horse, and any horses coupled with it as an entry, unplaced;

(c) Disqualify the offending horse, and any horses coupled with it as an entry, from participation in all or any part of the purse;

(d) Declare void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry;

(e) Affirm the placing judges' order of finish and suspend the jockey if, in the stewards' opinion, the foul riding had no effect on the order of finish; or

(f) Disqualify the offending horse and not suspend the jockey if, in the stewards' opinion, the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of the jockey.

Section 5. Dispute of a Race after Declared Official for Pari-mutuel Payoff. If the result of a race is placed in dispute by the lodging of an objection or complaint or by discovery of an alleged violation of ***KAR Titles 810 or 811[~~an administrative regulation~~]*** after the race has been declared official for pari-mutuel payoff, the procedures established in this section shall apply pending final determination of the disputed race.

(1) The purse money and trophy to which the horse objected to may have been entitled shall be withheld and placed in escrow by the association until final adjudication of the dispute, except the stewards may order any portion of the purse money to be distributed if the distribution would not be affected by the determination of the dispute.

(2) If purse money or trophy has been awarded to an owner prior to the lodging of an objection or discovery of an alleged violation of ***KAR Titles 810 or 811 that[~~an administrative regulation which~~]*** places the outcome of a race in dispute, the money or trophy shall be returned immediately to the association on order of the stewards. Upon final adjudication of the dispute, the person deemed to be entitled to the purse money or trophy shall be entitled to an order of recovery from any person or association holding the same.

(3) The horse that crossed the finish line first and any other horse that may become the winner of a disputed race shall be considered winners of that race until the matter is finally adjudicated.

Section 6. Determination of a Disputed Race. The stewards shall determine an objection, complaint, or alleged violation of ***KAR Titles 810 or 811[~~an administrative regulation~~]*** lodged or discovered after a race has been declared official for pari-mutuel payoff and shall issue a ruling. If the stewards find that ***a requirement of KAR Titles 810 or 811[~~an administrative regulation~~]*** was violated, the stewards may penalize the persons responsible, disqualify any horses in the disputed race, and award the purse money and trophy in accordance with any resulting revised order of finish in the disputed race.

Section 7. Revised Order of Finish after Race Declared Official for Pari-mutuel Payoff. If a horse is disqualified after a race has been declared official for pari-mutuel payoff and causes revision of the order of finish in the race:

(1) The pari-mutuel payoff shall not be affected in any way; and

(2) The stewards shall ensure that appropriate corrections are made in official records for the race and in racing statistics as ***might[~~may~~]*** pertain to the respective horses, jockeys, trainers, owners, breeders, sires, dams, and broodmare sires, by reporting the corrections to the racing secretary and to the Daily Racing Form.

Section 8. Complaints Against Officials. A complaint or protest by a licensee based on a decision or act of a racing official other than the stewards, or concerning any matter that may occur on association grounds not provided for by Sections 4 and 5 of this administrative regulation, shall be made in writing, signed by the complainant, and submitted to the stewards. A complaint or protest by a person based on a decision, act, or conduct of the stewards shall be submitted to the commission as ***established[~~provided~~]*** by 810 KAR 9:010.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:070. Jockeys and apprentices.

RELATES TO: KRS 230.215, 230.260

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.260 (10), 230.260 (14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and KRS 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which all horse racing is conducted. KRS 230.260(10) authorizes the commission to promulgate administrative regulations establishing minimum fees for jockeys in the absence of a contract between an employing owner or trainer and a jockey. KRS 230.260(14) authorizes the commission to promulgate administrative regulations to establish safety standards and minimum fees for jockeys. This administrative regulation establishes the requirements for jockeys and apprentice jockeys.

Section 1. Probationary Mounts. Any person desiring to participate in this state as a jockey, who has not ridden in a race previously, may ride in three (3) races before applying for a license as a jockey or apprentice jockey if:

(1) The person is a licensed stable employee, assistant trainer, or trainer with at least one (1) year of service with a racing stable;

(2) A licensed trainer certifies in writing to the stewards that the person has demonstrated sufficient horsemanship, as evidenced by ***[~~his~~]*** control of the animal while mounting, riding, and dismounting in race and nonrace conditions, to be permitted the probationary mounts;

(3) The starter has schooled the person in breaking from the starting gate with other horses and approves the person as capable of starting a horse properly from the starting gate in a race;

(4) The stewards determine that the person:

(a) Intends to become a licensed jockey;

(b) Possesses the physical ability to be a jockey; and

(c) Has demonstrated the ability to ride in a race without jeopardizing the safety of horses or other jockeys in the race; and

(5) The person has prior oral or written approval of the stewards.

Section 2. Qualifications for License. In addition to the requirements applicable to licensees under 810 KAR 3:020, a holder of a license as a jockey or apprentice jockey:

(1) Shall be sixteen (16) years of age or older and licensed under his or her legal name**,** which shall be listed in the daily race program;

(2) Shall have served at least one (1) year with a racing stable;

(3) Shall have ridden in at least three (3) races; and

(4) Shall, if required by the stewards, to protect the health and safety of the jockey, other jockeys, the horses, ***or[~~and~~]*** the welfare of the betting public, provide a medical affidavit certifying the person is physically and mentally capable of performing the activities and duties of a licensed jockey.

Section 3. Amateur or Provisional Jockey.

(1) An amateur wishing to ride in races on even terms with professional riders, but without accepting fees or gratuities***[~~therefore~~]***, shall:

(a) Be approved by the stewards as to competency of horsemanship, as demonstrated by meeting the requirements in Section 1(2), (3), and (4)(b) and (c) of this administrative regulation;

(b) Be granted an amateur jockey's license; and

(c) Have***[~~his~~]*** amateur status duly noted on the daily race program.

(2) A licensed owner or licensed trainer, upon approval by the stewards, may be issued a provisional jockey's license to ride his ***or her*** own horse or horse registered in his care as trainer.

Section 4. Apprentice Allowance in Thoroughbred Racing.

(1) The provisions of this Section apply only to thoroughbred racing.

(2) Any person sixteen (16) years of age or older, who has not been licensed previously as a jockey in any jurisdiction, and who is qualified under Section 2 of this administrative regulation, may claim in all purse races except handicaps the following weight allowances:

(a) Ten (10) pounds until he or she has ridden five (5) winners;

(b) Seven (7) pounds until he or she has ridden an additional thirty-five (35) winners;

(c) If he or she has ridden a total of forty (40) winners prior to the end of one (1) year from the date of riding his fifth winner, he or she shall have an allowance of five (5) pounds until the end of that year; and

(d) If after one (1) year from the date of the fifth winner, the apprentice jockey has not ridden forty (40) winners, the applicable weight allowance shall continue for one (1) additional year, or until the 40th winning mount, whichever occurs first.

(2)(a) After the completion of conditions in subsection (1) of this section, a contracted apprentice may claim three (3) pounds for one (1) year if riding horses owned or trained by his or her original contract employer if his or her contract has not been transferred or sold since his or her first winner.

(b) The original contract employer shall be the party to the contract who was the employer at the time of the apprentice jockey's first winner.

(c) Apprentice allowance shall not be claimed for a period in excess of two (2) years from the date of the rider's fifth winner unless an extension has been granted in accordance with subsection (4) of this section.

(3) An apprentice jockey may enter into a contract with a licensed owner or licensed trainer qualified under Section 5 of this administrative regulation for a period not to exceed five (5) years.

(a) These contracts shall be:

1. Approved by the stewards;

2. Filed with the commission; and

3. Binding in all respects on the parties to the contract.

(b) An apprentice who has not entered into a contract pursuant to this subsection shall be given an apprentice jockey certificate.

(4) If an apprentice jockey is unable to ride for a period of seven (7) consecutive days or more because of service in the armed forces of the United States, physical disablement, attendance in an institution of secondary or higher education, restrictions on racing, or other valid reason, the commission, upon recommendation of the stewards and after consultation with the racing entity that approved the original apprentice contract, may extend the time during which the apprentice weight allowance may be claimed for a period no longer than the period the apprentice rider was unable to ride.

(5) After completion of conditions in subsection (1) of this section, the rider shall be issued a license as a jockey before accepting subsequent mounts. Under these circumstances, the commission may waive collection of an additional license fee.

Section 5. Rider Contracts.

(1) All riding contracts for terms longer than thirty (30) days, and any amendments, cancellation, or transfer of the contract, shall be in writing with the signatures of the parties notarized, and shall be approved by the stewards and filed with the commission.

(2) The stewards shall approve a riding contract and permit parties to participate in racing in this state if the stewards determine that:

(a) The contract employer is a licensed owner or licensed trainer who owns or trains at least three (3) horses eligible to race when the contract is executed;

(b) The contract employer possesses the character, ability, facilities, and financial responsibility conducive to developing a competent race rider; and

(c) If it is a contract for an apprentice jockey, the contract provides for fair remuneration, adequate medical care, and an option equally available to both employer and apprentice jockey to cancel the contract after two (2) years from the date of execution.

Section 6. Restrictions as to Contract Riders. A contract rider shall not:

(1) Ride any horse not owned or trained by his contract employer in a race against a horse owned or trained by his ***or her*** contract employer;

(2) Ride or agree to ride any horse in a race without consent of his or her contract employer;

(3) Share any money earned from riding with his ***or her*** contract employer; ***or[~~and~~]***

(4) Accept any present, money, or reward of any kind in connection with his or her riding of any race except through his ***or her*** contract employer.

Section 7. Calls and Engagements.

(1) Any rider not prohibited by contract may agree to give first or second call on his ***or her*** race-riding services to any licensed owner or trainer.

(2) Any rider employed by a racing stable on a regular salaried basis shall not ride against the stable ***that[~~which~~]*** employs him ***or her***.

Section 8. Jockey Fees in Thoroughbred Racing.

(1) The fee to a jockey, in the absence of special agreement to the contrary, shall be as follows:

(a)

Purse	Winning Mount	Second Place Mount	Third Place Mount	Fourth Place Mount	Losing Mount
Up to $9,999	10% of Win Purse	5% of Place Purse OR $75, whichever is greater	$70	$65	$60
$10,000-$14,999	10% of Win Purse	5% of Place Purse	$75	$70	$65

$15,000-$24,999	10% of Win Purse	5% of Place Purse	5% of Show Purse OR $80, whichever is greater	$75	$70
$25,000-49,999	10% of Win Purse	5% of Place Purse	5% of Show Purse	$85	$80
$50,000-$99,000	10% of Win Purse	5% of Place Purse	5% of Show Purse	$90	$85
$100,000 and up	10% of Win Purse	5% of Place Purse	5% of Show Purse	5% of Fourth Place Purse	$110

(b) The flat fee amounts as ***established[~~set out~~]*** in paragraph (a) of this subsection are not percentage driven.

(2) A jockey fee shall be considered earned by a rider if he or she is weighed out by the clerk of scales, with the following exceptions:

(a) If a rider does not weigh out and ride in a race for which he or she has been engaged because an owner or trainer engaged more than one (1) rider for the same race, the owner or trainer shall pay an appropriate fee to each rider engaged for the race;

(b) If a rider capable of riding elects to take himself off the mount without, in the opinion of the stewards, reasonable cause; or

(c) If a rider is replaced by the stewards with a substitute rider for a reason other than a physical injury suffered by the rider during the time between weighing out and start of the race.

Section 9. Jockey Fees for Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing.

(1) The fee to a jockey in all races shall be, in the absence of special agreement, as follows:***[~~(a)~~]***

Purse	Winning Mount	Second Place Mount	Third Place Mount	Fourth Place Mount	Losing Mount
Up to $6,499	10% of Win Purse	Losing mt + $15	Losing mt + $10	Losing mt + $5	$75
$6,500-$9,999	10% of Win Purse	Losing mt + $15	Losing mt + $10	Losing mt + $5	$80
$10,000-$14,999	10% of Win Purse	5% of Place Purse	Losing mt + $10	Losing mt + $5	$85
$15,000-24,999	10% of Win Purse	5% of Place Purse	5% or (LM + $10) whichever is greater	Losing mt + $5	$90
$25,000-$49,999	10% of Win Purse	5% of Place Purse	5% or (LM + $10)	Losing mt + $5	$95
$50,000-$99,999	10% of Win Purse	5% of Place Purse	5% of Show Purse	Losing mt + $5	100
$100,000 and up	10% of Win Purse	5% of Place Purse	5% of Show Purse	5% of Fourth Place Purse	$125

(2) A jockey fee shall be considered earned by a rider when he or she is weighed out by the clerk of scales, with the following exceptions:

(a) ***If a[~~When~~]*** rider does not weigh out and ride in a race for which he or she has been engaged because an owner or trainer engaged more than one (1) rider for the same race, the owner or trainer shall pay an appropriate fee to each rider engaged for such race;

(b) ***If a[~~When~~]*** such rider capable of riding elects to take himself or herself off the mount without, in the opinion of the stewards, reasonable cause; or

(c) ***If a[~~When~~]*** such rider is replaced by the stewards with a substitute rider for a reason other than a physical injury suffered by the rider during the time between weighing out and start of the race.

Section 10. Revised Order of Finish After Race is Declared Official. If a winning purse is forfeited through subsequent ruling of the stewards or the commission, after a race has been declared official, the winning fee shall be paid to the jockey whose mount is ultimately adjudged the winner, and the original winner shall be paid***[~~only~~]*** a losing mount fee.

Section 11. Duty to Fulfill Engagements. Every rider shall fulfill his or her duly scheduled riding engagements, unless excused by the stewards due to circumstances under which a jockey could not reasonably be expected to be physically present at the required time. A rider shall not be required to ride a horse he or she believes to be unsound, nor over a racing strip he or she believes to be unsafe***[~~; however,~~]*** If the stewards find a rider's refusal to fulfill a riding engagement is based on a personal belief unwarranted by the facts and circumstances, the rider may be subject to disciplinary action.

Section 12. Presence in Jockey Room.

(1) Each rider who has been engaged to ride in a race shall be physically present in the jockey room no later than one (1) hour prior to post time for the first race he ***or she*** is scheduled to ride, unless excused by the stewards or the clerk of scales due to circumstances under which a jockey could not reasonably be expected to ride. Upon arrival each rider shall report his or her engagements to the clerk of scales. If a rider fails for any reason to arrive in the jockey room no later than one (1) hour before post time of a race in which he or she is scheduled to ride, the clerk of scales shall so advise the stewards who may name a substitute rider and shall cause a public announcement to be made of the rider substitution prior to opening of wagering on the race.

(2) Each rider reporting to the jockey room shall remain in the jockey room until he ***or she has fulfilled all[~~has fulfilled all his~~]*** riding engagements for the day, except to ride in a race, or to view the running of a race from a location approved by the stewards. While a rider is outside of the jockey room, a rider shall not have contact or communication with any person other than an owner or trainer for whom he ***or she*** is riding, a racing official, or a media representative authorized by the stewards, until the rider has fulfilled all his riding engagements for the day.

(3) The association shall be responsible for security of the jockey room and for excluding all persons except riders scheduled to ride on the day's program, valets, authorized attendants, racing officials, media representatives authorized by the stewards, and persons having special permission of the stewards to enter the jockey room.

(4) Any rider intending to discontinue riding at a race meeting prior to its conclusion shall notify the stewards of his or her intent to depart after fulfilling his or her final riding engagement of the day.

Section 13. Weighing Out.

(1) Each rider engaged to ride in a race shall report to the clerk of scales for weighing out not more than one (1) hour and not less than fifteen (15) minutes before post time for each race in which he or she is engaged to ride, and when weighing out, the rider shall declare overweight, if any.

(2) (a) A rider shall not pass the scale with more than one (1) pound overweight, without consent of the owner or trainer of the horse he or she is engaged to ride; and

(b) A rider shall not pass the scale with more than five (5) pounds overweight.

(3) A horse shall not be disqualified because of overweight carried.

(4) Riding crops, blinkers, number cloths, bridles, bits, reins, over-girth, breast collar, goggles, safety helmets, and safety vests shall not be included in a rider's weight.

Section 14 Wagering.

(1) A rider shall not:

(a) Place a wager;

(b) Cause a wager to be placed on his behalf;, or

(c) Accept any ticket or winnings from a wager on any race except on his ***or her*** own mount, and except through the owner or trainer of the horse he ***or she*** is riding.

(2) The owner or trainer placing wagers for his or her rider shall maintain a precise and complete record of all of these wagers, and the record shall be available for examination by the stewards at all times.

Section 15. Attire.

(1) Upon leaving the jockey room to ride in any race, each rider shall be neat and clean in appearance and wear the traditional jockey attire with all jacket buttons and catches fastened.

(2) Each jockey shall wear:

(a) The cap and jacket racing colors registered in the name of the owner of the horse he or she is to ride;

(b) Stock tie;

(c) White or light breeches;

(d) Top boots;

(e) A safety vest and safety helmet that meet the standards ***established[~~set forth~~]*** in subsections (4) and (5) of this section; and

(f) A number on his or her right shoulder corresponding to his mount's number as shown on the saddle cloth and daily racing program.

(3) The clerk of scales and attending valet shall be held jointly responsible with a rider for his neat and clean appearance and proper attire.

(4) A jockey mounted on a horse or stable pony at a location under the jurisdiction of the commission shall wear a properly secured safety helmet at all times. If requested by a commission official, the jockey shall provide sufficient evidence that his or her helmet has a tag, stamp, or similar identifying marker indicating that it meets ***or exceeds one (1)[~~one~~]*** of the following safety standards:

(a) ASTM International Standard, ASTM F1163-04a;

(b) British Standards, BS EN 1384:1997 or PAS 015:1999; or

(c) Australian/New Zealand Standard, AS/NZS 3838:2006.

(5) A jockey mounted on a horse or stable pony at any location under the jurisdiction of the commission shall wear a safety vest at all times. If requested by a commission official, the jockey shall provide sufficient evidence that his or her safety vest has a tag, stamp, or similar identifying marker indicating that it meets or exceeds one (1) of the following safety standards:

(a) British Equestrian Trade Association (BETA):2000 Level 1;

(b) Euro Norm (EN) 13158:2000 Level 1;

(c) ASTM International Standard, ASTM F2681-08;

(d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or

(e) Australian Racing Board (ARB) Standard 1.1998.

Section 16. Advertising.

(1) A jockey shall not wear advertising or promotional material of any kind (whether for a nonprofit or for-profit entity) on clothing within one (1) hour before or after a race, unless:

(a)1. The material advertises or promotes the Jockey's Guild in the form of the picture of a jockey's boot or the picture of a wheelchair, with no additional picture or logo;

2. The material advertises or promotes the Permanently Disabled Jockey's Fund in the form of the pictures of its logo, with no additional picture or logo; or

3. The picture or logo has previously been approved by the current owner, association, and the stewards under the process ***established[~~set forth~~]*** in this administrative regulation, and this approval is reflected in the commission's official records;

(b) The material complies with the size restrictions of subsection (2)(b) of this section;

(c) The material meets the advertising standards ***established[~~listed~~]*** in subsection (2) of this section;

(d) Written approval by the following is submitted to the commission:

1. The managing owner of the horse, or authorized agent of the managing owner;

2. The jockey riding the horse or the authorized agent of the jockey;

3. The licensed racing association, which shall grant approval if it reasonably determines the material meets the standards in subsection (2)(a) of this section; and

4. The stewards, who shall grant approval if they reasonably determine the material meets the standards in subsections (2)(b) and (3) of this section; and

(e) Written approval required pursuant to subsection (1)(d) of this section is evidenced by completion and return to the commission of the ***["]***Request to Wear Advertising and Promotional Materials***,["]*** form***[,]*** KHRC-4-070-1. The form shall be completed and submitted to the stewards not later than 5 p.m. ***at least*** two (2) days prior to the day of the race in which the advertising and promotional materials will be worn. Other forms of approval shall not be accepted by the commission.

(2) Advertising or promotional material displayed on jockey clothing shall:

(a) Not compete with, conflict with, or infringe upon sponsorship agreements applicable to the racing association race or to the race meet in progress; and

(b) Comply with the following size restrictions:

1. A maximum of thirty-two (32) square inches on each thigh of the pants on the outer side between the hip and knee and ten (10) square inches on the rear of the pant at the waistline at the base of the spine;

2. A maximum of twenty-four (24) square inches on boots and leggings on the outside of each nearest the top of the boot; and

3. A maximum of six (6) square inches on the front center of the neck area (on a turtleneck or other undergarment).

(3) A sponsorship shall not be permitted by a person or entity whose message, business reputation, or ongoing business activity ***could[~~may~~]*** be considered as obscene or indecent to a reasonable person.

(4) Any party who fails to comply with this or any other provision ***established[~~provided~~]*** in this administrative regulation ***shall[~~may~~]*** be subject to penalties by the commission in accordance with KRS Chapter 230 and ***KAR*** Title 810***[~~KAR~~]***.

(5) As a condition for approval of advertising or promotional material, either the owners, the stewards, or the licensed racing association may require a personal viewing of the proposed material as it is to be displayed, to determine compliance with this section.

(6) The sponsor of a licensed racing association race or race meeting may display advertising or promotional material on an association saddlecloth if it does not interfere with the clear visibility of the number of the horse.

(7) Advertising content other than that approved in accordance with this administrative regulation shall not be permitted.

(8) This administrative regulation shall not infringe upon or limit the common law rights of a racing association to eject or exclude persons, licensed or unlicensed, from association grounds, or to apply the association's internal rules regarding other forms of advertising not addressed in this or any other applicable statute or administrative regulation, if the internal rules have been previously filed with and approved by the commission or its authorized representative.

Section 17. ***Race Replay[~~Viewing Films or Tapes of Races~~]***.

(1) Every rider shall check the ***race replay[~~film~~]*** list posted by the stewards in the jockey room the day after riding in a race.

(2) The posting of the ***race replay[~~film~~]***film list shall be considered as notice to all riders whose names are listed to present themselves when designated by the stewards to view the ***race replay[~~patrol films or video tapes of races~~]***.

(3) Any rider may be accompanied by a representative of the jockey organization of which he or she is a member in viewing the ***race replay[~~films~~]*** or, with the stewards' permission, be represented at the viewing by his ***or her*** designated representative.

Section 18. Material Incorporated by Reference.

(1)***[~~The following material is incorporated by reference:~~***
[~~(a)~~] "Request to Wear Advertising and Promotional Material", KHRC 4-070-1***, 11/2018***.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.
(3) This material may also be obtained from the Kentucky Horse Racing Commission Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
FILED WITH LRC: November 15, 2018 at 9 a.m.
CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:080. Steeplechase racing.

RELATES TO: KRS 230.215, 230.361
STATUTORY AUTHORITY: KRS 230.215(2), 230.361(4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky This administrative regulation sets forth the standard under which steeplechase races shall be conducted when there is pari-mutuel wagering.

Section 1. Definitions.***[~~(1)~~]*** "Steeplechase race" means a contest between thoroughbred horses over a prescribed course ***that sometimes includes[~~which may include~~]*** obstacles or jumps and is conducted at a racing association licensed by the Kentucky Horse Racing Commission.***[~~(2) "Recognized meeting" means any steeplechase race meeting with regularly scheduled races for thoroughbreds, licensed by and conducted under administrative regulations promulgated by a governmental regulatory body, to include foreign countries which are regulated by a racing authority recognized by The Jockey Club of New York.~~]***

Section 2. Unless otherwise provided for in this administrative regulation, all steeplechase races with pari-mutuel wagering shall be conducted in accordance with the provisions of KAR Title 810 pertaining to flat racing.

Section 3. For steeplechase races, "maiden" means a horse which, at the time of starting, has never won a race at a recognized meeting, except***[~~as follows~~]***:
(1) In flat racing, a horse shall be considered a maiden regardless of whether the horse has been the winner of a steeplechase race***; and[~~.~~]***
(2) In a steeplechase race, a horse shall be considered a maiden regardless of whether ***or not*** the horse has been the winner of a flat race.

Section 4. In steeplechase races, a horse shall be considered a ***["]***starter***["]*** immediately upon the starter dropping the flag.

Section 5. In steeplechase races, the ***["]***Scale of Weights for Age***["]*** in the ***["]***National Steeplechase Association Rules of Racing***["]*** shall apply.

Section 6. In steeplechase races, the provisions of 810 KAR 2:070, Section ***33[~~35~~]*** shall not apply.

Section 7. In steeplechase races, the provisions of 810 KAR 4:010, Section 7 shall not apply.

Section 8. In steeplechase races, the provisions of 810 KAR 4:030, Section 3(8) shall not apply.

Section 9. In steeplechase races, except handicap races and stakes races, riders who have never ridden a winner ***shall be[~~are~~]*** allowed ten (10) pounds.
(1) Non-winners of fifteen races are allowed five (5) pounds.
(2) Weight penalties shall be obligatory.
(3) Weight allowance shall be claimed at time of entry and shall not be waived after the posting of entries except by consent of the stewards.

Section 10. Incorporation by Reference.
(1) "Scale of Weights for Age", included in the National Steeplechase Association, Rules of Racing, 2014 edition, revised 2017, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
FILED WITH LRC: November 15, 2018 at 9 a.m.
CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:090. Owners.

RELATES TO: KRS 230.215, 230.260, 230.290, 230.310, 230.320
STATUTORY AUTHORITY: KRS 230.215(2), 230.310, 230.320(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which horse racing shall be conducted in Kentucky. KRS 230.310 requires any person who desires to participate in racing in Kentucky as an owner to apply to the commission for a license, and authorizes the commission to promulgate administrative regulations pertaining to licensing. KRS 230.320 authorizes the commission to promulgate administrative regulations under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse. The function of this administrative regulation is to outline the requirements for owners to participate in horse racing in Kentucky.

Section 1. Owner's License Required. ***A horse shall not be[~~No horse may be entered or~~]*** raced in this state unless the owner or each of the part owners, except as ***established[~~allowed~~]*** in Section 4 of this administrative regulation, has been granted a current owner's license or temporary license by the commission.

Section 2. Owner's License Limitations.
(1) A licensed owner or trainer may personally serve as a farrier or jockey for horses he ***or she*** owns or are registered as in his ***or her care, if he or she[~~care, provided he~~]*** has received from the stewards a certification of the licensee's fitness as a competent farrier or jockey.
(2) A licensed owner ***shall***:

(a)***[Shall]*** Own or have under lease a horse eligible to race***[,]*** and be prepared to prove same upon call of the stewards***; and[.]***

(b)***[Shall]*** Not engage in an activity directly or indirectly involving the racing performance of horses owned by others.

(3)(a) Except ***as established[at provided]*** in paragraph (b), a licensed owner shall be at least eighteen (18) years old.

(b) The commission may grant an owner's license to a person less than eighteen (18) years of age who is a son or daughter of a licensed owner in this state, if the parent:

1. ***Holds[Hold]*** an owner's license in this state; and

2. Files with the license application of the minor an agreement whereby the parent assumes responsibility for meeting all financial, contractual, or other obligations relating to racing of the applicant son or daughter

(4) The commission may deny, suspend, or revoke an owner's license for the spouse or any member of the immediate family or household of a person who is ineligible to hold an owner's license, unless there is a showing on the part of the applicant or licensed owner that his or her participation in racing as an owner shall in no way circumvent the intent of the administrative regulation by permitting a person, under the control or direction of a person ineligible for an owner's license, to serve in essence as a substitute for the ineligible person.

Section 3. Ownership Disclosure.

(1) Licensed owners and licensed trainers shall be jointly responsible for making a full disclosure of the entire ownership of each horse in their care.

(2) Disclosure under this section shall identify in writing all persons who directly, or indirectly through a lien, lease partnership, corporate stockholding, syndication, or other joint venture, hold any present or reversionary right, title, or interest in and to ***a[such]*** horse, and those persons who by virtue of any form of interest may exercise control over or benefit from the racing of the horse. The degree and time of***[such]*** ownership held by each person shall also be designated.

(3) Disclosure under this section shall be made when registering each horse with the racing secretary upon arrival on association grounds or at time of entry***,*** whichever event occurs first***,*** and shall be revised immediately upon any subsequent change in the ownership.

(4) Disclosure under this section together with all written agreements, and affidavits setting out oral agreements, pertaining to the ownership of or rights to a horse, shall be filed with the stewards.

(5) All documents pertaining to the ownership or lease of a horse filed with the stewards shall be available for public inspection.

(6) The stewards may review the ownership of each horse entered to race. The stewards may determine the validity for racing purposes of all leases, transfers, and agreements pertaining to ownership of a horse and may call for adequate evidence of ownership at any time. The stewards may declare ineligible to race any horse, the ownership or control of which***[,]*** is in question.

Section 4. Joint Ownership.

(1)***[No]*** More than five (5) individual persons ***shall not[may]*** be licensed as owners of a single horse.

(2) If more than five (5) individual persons own interests in a single horse, through a partnership, corporation, syndication, or other joint venture, then those individual persons shall designate a member of the partnership, corporation, syndicate, or joint venture to represent the entire ownership of and be responsible for the horse as the licensed owner.

(3) The commission may deny, suspend, or revoke the license of any owner whose ownership of a horse is qualified or limited in part by rights or interests in or to the horse being held or controlled by any other individual person or persons who would be ineligible to be licensed as an owner.

Section 5. Program Listing of Owners.

(1) Names of all persons licensed as owners of each horse shall be listed in the daily program.

(2) If space limitations preclude listing of first names, then at least two (2) initials shall precede surnames.

(3) Stable names, or corporate names, registered in other racing jurisdictions may be shown parenthetically if program space limitations permit.

(4) Lessees licensed as owners shall be designated on the program as lessees of each leased horse.

Section 6. Leases.

(1) A horse may be raced under lease with approval of the stewards, who may suspend or void approval at any time.

(2) ***A lease shall not[No lease may]*** be approved by the stewards for racing purposes unless:

(a) Lessee is licensed as an owner;

(b) Each of the signatures of the lessors and lessees on the lease agreement is subscribed and sworn to before a notary public;

(c) Term of the lease is no less than one (1) year, unless sooner terminated by claim or retirement of the horse;

(d) Conditions of the lease specify whether ***or not*** the horse can be entered in a race to be claimed. If agreeable to lessor that the horse may be entered in a claiming race, then the lease shall specify the minimum price for which the horse may be entered and the name of the payee of the claiming price;

(e) Conditions of the lease specify that upon claim of the horse, the lease shall terminate and all rights in and to the horse shall pass to claimant as a bona fide purchaser; ***and***

(f) After reviewing the full ownership of the leased horse, and the interests of all persons involved in the lease and the term and conditions of the lease, the stewards in their discretion find that the lease:

1. Completely divests lessors or sublessors of further control or direction of the racing performance of the horse while under lease; and

2. The resultant program listing of lessee ***shall[would]*** not mislead the betting public by reason of the absence in the program listing of the name of a person or persons possessing a beneficial interest in the leased horse.

Section 7. Thoroughbred Racing Colors.

(1) Thoroughbred owners shall be responsible for designing and providing individual racing colors, consisting of jackets and caps of distinctive color and pattern to be worn by jockeys during a race.

(2) The stewards may refuse to permit the use of racing colors that include advertising, or promotions, symbols or words, or ***that[which]*** otherwise, in the opinion of the commission, are not in keeping with the traditions of the turf.

(3) ***A thoroughbred shall not[No thoroughbred may]*** be raced in racing colors other than those registered in the name of the horse's owner without special permission of the stewards. If an owner races two (2) or more horses in the same race, jackets shall be identical while caps may be varied in color or design.

(4) Owners and trainers shall be jointly responsible for the condition of racing colors, insuring that they are neat, clean, and in good repair, and that an adequate number of sets of racing colors are placed in the care of the clerk of scales.

(5) The clerk of scales and the valet serving a jockey shall be jointly responsible for having the correct jacket and cap on each rider ***upon[when]*** leaving the jockey room for the paddock.

Section 8. Authorized Agent.

(1) A licensed owner may, as a principal, authorize any person, as an agent, to act on the owner's behalf in all matters pertaining to racing in this state and ownership of horses on association grounds.

(2) A licensed owner shall be jointly liable and responsible with his ***or her*** licensed authorized agent for all acts and omissions of the authorized agent in a racing matter.

Section 9. Suspension. ***A[No]*** horse owned wholly or in part by an owner whose license has been suspended shall ***not*** be permitted to race during***[such]*** suspension.

Section 10. Partnerships.

(1) Partnerships that own or control a present or reversionary

interest in a horse to be raced shall register with the commission.

(2) Partnership papers shall be filed with an owner's license application and shall set forth***[the following]***:

(a) The name and address of every person having an interest in the horse involved;

(b) The relative proportion of the interests;

(c) To whom winnings are payable;

(d) In whose name the horse shall run;

(e) With whom the power of entry and declaration rests;

(f) The terms of any contingency, lease, or any other arrangement; and

(g) The names of the horses involved.

(3) All partnership registrations shall be signed by the principal partner or by his authorized agent.

(4) Any alteration in a recorded partnership shall be reported in writing to the commission and signed by all the partners, or their authorized agent.

(5) All the parties in a partnership and each of them shall be jointly and severally liable for all stakes, fees, and other obligations.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 4:100. Trainers.

RELATES TO: KRS 230.215, 230.260, 230.290, 230.310, 230.320***, Chapter 342***

STATUTORY AUTHORITY: KRS 230.215(2), KRS 230.310

NECESSITY, FUNCTION, AND CONFORMITY: KRS 23.0215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which horse racing shall be conducted in Kentucky. KRS 230.310 requires any person who desires to participate in racing in Kentucky to apply to the commission for a license. The function of this administrative regulation is to outline the requirements for trainers to participate in horse racing in Kentucky.

Section 1. Trainer's License Required. ***A horse shall not[No horse may]*** be raced in this state unless the trainer has been granted a current trainer's license by the commission.

Section 2. Trainer's License Limitations.

(1) A holder of a trainer's license shall:

(a) Be a person eighteen (18) years of age or older;

(b) Be qualified by experience or competence to care for and train race horses as determined by a standard examination prescribed and given at any time by the stewards; and

(c) Have in his or her charge a horse eligible to race.

(2) ***A trainer shall not[No trainer may]*** be licensed to train under an assumed or stable name.

(3) ***A trainer shall not[No trainer shall]*** engage in an activity directly or indirectly involving the racing performance of horses on association grounds other than those registered as being in his or her charge.

(4) A licensed trainer shall not also be currently licensed to participate in racing in this state as a jockey, apprentice jockey, jockey's agent, veterinarian, assistant veterinarian, dental technician, farrier, apprentice farrier, or as an association racing department employee, except as ***established[provided]*** in 810 KAR 4:070.

(5) The commission may deny, suspend, or revoke the trainer's license of the spouse, or any member of the immediate family or household, or a licensee ineligible to hold a trainer's license, unless there is a showing on the part of the applicant or licensed trainer, and the commission so finds, that his or her participation in racing as a trainer shall ***not[in no way]*** circumvent the intent of this administrative regulation by permitting a person, under the control or direction of a licensee ineligible to hold a trainer's license, to serve in essence as a substitute for the ineligible person.

Section 3. Duties and Responsibilities.

(1) In the absence of substantial evidence to the contrary, a licensed trainer shall bear primary responsibility for the proper care, health, training condition, safety, and protection against the administration of prohibited drugs or medication of horses in his or her charge.

(2) A licensed trainer:

(a) Shall register with the racing association security all persons in his or her employ and insure that those persons are duly licensed within twenty-four (24) hours after the employees arrive on association grounds or are employed. Upon discharge of an employee, a trainer shall promptly notify track security and the commission license administrator***;[.]***

(b) Shall carry workers' compensation insurance covering his or her employees in connection with racing as required by KRS Chapter 342***;[.]***

(c) Shall register with the racing secretary all horses in his or her charge. ***A licensed trainer shall not[No licensed trainer may]*** take or keep in his or her charge a horse owned wholly or in part, or controlled by, a person unlicensed as an owner. ***A licensed trainer shall not[No licensed trainer shall]*** assume responsibility for a horse not under his or her active care and supervision, except as ***established[provided]*** by subsection (4) of this section***;[.]***

(d) In the absence of substantial evidence to the contrary, shall bear primary responsibility for horses he or she enters as to eligibility; weight allowance claimed; physical fitness to perform creditably at the distance entered; absence of prohibited drugs or medications; proper shoes, bandages, and equipment; and timely arrival in the saddling paddock. A licensed trainer shall bear joint responsibility with the licensed owner for horses he or she enters as to stakes payments and jockey fees due***;[.]***

(e) Shall furnish the name of the jockey engaged to ride each horse entered at the time of entry. If no rider has been named at the time of entry or the rider named is unavailable, then the stewards shall name a rider***;[.]***

(f) Shall personally attend his or horses in the paddock and supervise the saddling thereof, unless excused by the stewards. If a licensed trainer is to be absent from association grounds where his or her horses are stabled, he or she shall provide a substitute to attend the saddling of horses already entered. The substitute shall:

1. Be his or her assistant trainer or another licensed trainer;
2. Be approved by the stewards; and
3. Assume complete responsibility for horses to be entered***;[.]***

(g) May attend the taking of urine, blood, or other biological sample approved by the commission from a horse in his or her charge by the commission veterinarian, or may delegate one ***(1)*** of his or her licensed employees to do so***;[.]***

(h) Shall maintain the stable area assigned***[to him]*** in a clean, neat, and sanitary condition at all times, and ensure that fire-prevention laws ***established by the racing association*** are strictly observed***; and[.]***.

(i) Shall promptly report to the commission veterinarian or stewards any sickness or death of any horse in his or her charge.

Section 4. Ownership Restrictions. ***A licensed trainer shall not[No licensed trainer shall]*** have any interest, by ownership or lease in the racing or breeding qualities, in a horse of which he or she is not the trainer at any race meeting at which the trainer is in charge of a racing stable.

Section 5. Suspension. ***A[No]*** horse in the charge of a trainer whose license has been revoked or suspended shall ***not*** be permitted to race during such suspension. Upon application by the owners of the suspended horse, the stewards may approve the transfer of the horse to the care of another licensed trainer and,

upon the approved transfer, the horse may be entered to race.

Section 6. Assistant Trainer.
(1) A licensed trainer may employ an assistant trainer.
(2) An assistant trainer shall be:
(a) Licensed before acting in***[such capacity]*** on behalf of his or her employer; and
(b) Qualified by experience or competence to care for race horses as determined by a standard examination prescribed and given at any time by the stewards.
(3) A licensed assistant trainer shall assume the same duties and responsibilities ***as[that are imposed on]*** a licensed trainer.
(4) A licensed trainer shall be jointly liable and responsible with his or her licensed assistant trainer for all acts and omissions of the assistant trainer in a racing matter.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:001. Definitions.

RELATES TO: ***KRS 230.210, 230.215, 230.260, 230.3615[810 KAR Chapter 5]***
STATUTORY AUTHORITY: KRS 230.215, 230.260(8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation defines the terms used in 810 KAR Chapter 5.

Section 1. Definitions.
(1) "Added money" means the amount of money, exclusive of trophy, added into a stakes race by an association, a sponsor, a state-bred program, or other fund, and which is in addition to stakes fees paid by subscribers.
(2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.
(3) "Also eligible" means in standardbred racing:
(a) An eligible horse, properly entered, which is not drawn for inclusion in a race, but which becomes eligible according to preference or lot if another horse is scratched prior to the scratch time deadline; or
(b) The next preferred nonqualifier for the finals, or consolation from a set of elimination trials, which becomes eligible if a finalist is scratched by the judges for a rule violation, or is otherwise eligible if written race conditions permit.
(4) "Appeal" means a request for the commission to investigate, consider, and review any decision or ruling of a steward***,[or]*** judge***,*** or official of a meeting.
(5) "ARCI" means the Association of Racing Commissioners International.
(6) "Association" is defined by KRS 230.210***(5)[(1)]***.
(7) "Claiming race" means a race in which ownership of a horse participating in the race may be transferred in conformity with 810 KAR 5:030.
(8) "Closing" means the time published by the association after which entries for a race will not be accepted by the racing secretary.
(9) "Coggins test" means a blood test used to determine if a horse is positive for Equine Infectious Anemia.
(10) "Commission" means:
(a) The Kentucky Horse Racing Commission***[(formerly known as the Kentucky Horse Racing Authority and defined in KRS 230.210(2))]*** if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; ***or[and]***
(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.
(11) "Condition race" means an overnight race in which eligibility is determined according to specified conditions, which may include the following:
(a) Age;
(b) Sex;
(c) Earnings;
(d) Number of starts; or
(e) Positions of finishes.
(12) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.
(13) "Coupled entry" means two (2) or more horses in a race that are treated as a single betting interest for pari-mutuel wagering purposes.
(14) "Dash" means in standardbred racing a race in a single trial or in a series of two (2) or three (3) races governed by one (1) entry fee for the series, in which***:***
(a) A horse starts in all ***races[dashes]*** with positions drawn for each ***race; and***
(b)[dash and] The number of purse distributions or payouts awarded does exceed the number of starters in the ***race[dash]***.
(15) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.
(16) "Declaration" means in standardbred racing the naming of a particular horse as a starter in a particular race.
(17) "Disqualification" means a ruling of the stewards, judges, or the commission revising the order of finish of a race.
(18) "Draw" means the process of determining post positions by lot.
(19) "Driver" means in standardbred racing a person who is licensed to drive a horse in a race.
(20) "Early closing race" means in standardbred racing a race for a definite amount of money in which entries close at least six (6) weeks prior to the race.
(21) "Electronic eligibility" means a computer-generated eligibility certificate that records a horse's racing statistics.
(22) "Elimination heat" means in standardbred racing an individual heat of a race in which the contestants qualify for a final heat.
(23) "Entry" means the act of nominating a horse for a race in conformance with Title 810 KAR.
(24) "Extended pari-mutuel meeting" means in standardbred racing a meeting or series of meetings***:***
(a)[;] At which no agriculture fair is in progress***;***
(b)[;] With an annual total of more than six (6) days duration***;*** and
(c) During which pari-mutuel wagering is permitted.
(25) "Field" or "mutuel field" means a single betting interest involving more than one (1) horse which is not a mutuel entry.
(26) "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative ruling of the stewards, judges, or the commission.
(27) "Foul" means any action by any jockey or driver that tends to hinder another jockey or any horse in the proper running of the race.
(28) "Futurity" means in standardbred racing a stake in which the dam of the competing animal is nominated either when in foal or during the year of foaling.
(29) "Handicap" means in standardbred racing a race in which allowances are made according to a horse's:
(a) Age;
(b) Sex;
(c) Claiming price; or
(d) Performance.

(30) "Horse" means any equine***[~~irrespective of age or sex designation and~~]*** registered for racing with the applicable breed registry***, irrespective of age or sex designation***.

(31) "Ineligible" means a horse or person not qualified under Title 810 KAR or conditions of a race to participate in a specified racing activity.

(32) "In harness" means, in standardbred racing, that the performance will be to a sulky.

(33) "Judge" means a duly appointed racing official with powers and duties specified in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(34) "Late closing race" means in standardbred racing a race for a fixed amount of money in which entries close less than six (6) weeks but***[~~not~~]*** more than three (3) days before the race is to be contested.

(35) "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(36) "Licensed premises" means***:***

(a) The location and physical plant described in response to question ***S[~~R~~]*** of the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in the following year***; or***

(b)[~~. Licensed premises may also include~~] Real property of an association, if the association receives approval from the commission for a new location at which live racing will be conducted.

(37) "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(38) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing ***beginning[~~. A meeting shall begin~~]*** at 10 a.m. of the first racing day and ***extending[~~extend~~]*** through a period ending one (1) hour after the last scheduled race of the last day.

(39) "Month" means calendar month.

(40) "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(41) "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

(42) "Nominator" means the person in whose name a horse is entered for a stakes race.

(43) "Objection" means a verbal claim of foul in a race lodged by the horse's jockey, driver, trainer, or owner before the race is declared official.

(44) "Official time" means the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

(45) "Overnight race" means a contest for which entries close at a time set by the racing secretary.

(46) "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(47) "Pari-mutuel wagering," "mutuel wagering", or "pari-mutuel system of wagering" each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one (1) or more designated wagering pools and the net pool is returned to the winning patrons.

(48) "Patron" means an individual present at a track or a simulcast facility who observes or wagers on a live or historical horse race.

(49) "Post" means the starting point of a race.

(50) "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(51) "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(52) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by rules which, if true, would exclude that horse or driver from racing.

(53) "Purse" means the gross cash portion of the prize for which a race is run.

(54) "Purse race" means any race for which entries close at a time designated by the racing secretary, and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(55) "Race" means a running contest between horses, ridden by jockeys or driven by drivers at a recognized meeting, during regular racing hours, for a prize.

(56) "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(57) "Racing official" means a racing commission member, commission staff, as duties require, and all association racing department employees, as duties require.

(58) "Registration certificate" means the document, racing permit, or virtual certificate issued by the appropriate breed registry identifying the horse for racing.

(59) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pools.

(60) "Rulings" means all determinations, decisions, or orders of the stewards or of the commission***[~~duly~~]*** issued in writing and posted.

(61) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with Title 810 KAR.

(62) "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(63) "Simulcasting" is defined by KRS 230.210***(19)[~~(11)~~]***.

(64) "Stable name" means in standardbred racing a name used other than the actual legal name of an owner or lessee and which has been registered with the United States Trotting Association.

(65) "Stake" means in standardbred racing a race which will be contested in a year subsequent to its closing***:***

(a) In which the money given by the association conducting the race is added to the money contributed by the nominators, all of which***,*** except deductions for breeders or nominator's awards***,*** belongs to the winner or winners***;[~~,~~]*** and

(b) In which, except as provided in 810 KAR 5:050, Section 6, all of the money contributed by the nominators belongs to the winner or winners.

(66) "Stakes" mean all fees paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as***[~~may be~~]*** required by the conditions of the race, with the fees to be included in the purse.

(67) "Starter" means either:

(a) An official who dispatches the horses from the starting gate; or

(b) A horse in a race when the starting gate doors open in front of it at the moment the starter dispatches the horses for the race.

(68) "Subscription" means nomination or entry of a horse in a stakes race.

(69) "Sulky" means a dual-wheel racing vehicle with dual shafts not exceeding the height of the horse's withers.

(70) "Suspended" means withdrawal ***of racing privileges*** by the ***judges[~~steward~~]*** or commission***[~~of racing privileges~~]***.

(71) "USTA" means the United States Trotting Association.

(72) "Year" means twelve (12) consecutive months beginning with January and ending with December.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:010. Registration and identification of horses.

RELATES TO: KRS 230.215(2), 230.260(1)***(2)***, (7)***[, (2)]***
STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements concerning the registration, ownership, and identification of horses, and the furnishing of information about standardbred horses.

Section 1. Registration. All matters relating to registration of standardbred horses shall be governed by the rules of the United States Trotting Association.

Section 2. Bona Fide Owner or Lessee. A horse shall race in the name of:
(1)[(a)] The bona fide owner; or
(2)[(b)] The lessee, and a copy of the lease shall be recorded with the judges before the horse is permitted to race.

Section 3. Program Information.
(1) A printed program shall be available to the public at any meeting in which horses are raced for purse money. A program shall furnish at a minimum:
(a) Horse's name and sex;
(b) Color and age;
(c) Sire and dam;
(d) Owner's name; and
(e) Driver's name and colors.
(2) At extended pari-mutuel meetings, the program shall also furnish:
(a) In claiming races, the price for which the horse is entered to be claimed;
(b) At least two (2) accurate performance chart lines. An accurate performance chart line shall include:
1. Date of race;
2. Place of race;
3. Size of track, if other than a half-mile track;
4. Symbol for free-legged pacers;
5. Symbol for hobbled trotters;
6. Track condition;
7. Type of race;
8. Distance;
9. Fractional times of the leading horse including race time;
10. Post position;
11. Position of:
a. One-quarter (1/4);
b. One-half (1/2);
c. Three-quarters (3/4);
d. Stretch with lengths behind leader; and
e. Finish with lengths behind leader;
12. Individual time of the horse;
13. Closing dollar odds;
14. Name of the driver; and
15. Names of the horses placed first, second, and third by the judges. The standard symbols for breaks and park-outs shall be used, if applicable;
(c) Information indicating drivers racing with a provisional license;
(d) Information indicating pacers racing without hobbles;
(e) Information indicating trotters racing with hobbles;
(f) For the current and preceding year, a summary of starts in purse races, earnings, and best win time. A horse's best win time may be earned in either a purse or non-purse race;
(g) The name of the trainer and stable, if applicable; and
(h) The date, place, time, driver, finish, track condition, and distance on the consolidated line, if the race is not one (1) mile.
(3) All horses drawn into an early closer, a late closer, stake, or futurity shall be listed in the official program.

Section 4. Check on Identity of Horse. An association official or member of the commission, or their respective agents, may request information concerning the identity and eligibility of a horse on the grounds of a track, and may examine that horse for the purpose of establishing the horse's ***identity[identify]*** or eligibility. If the owner or party controlling that horse refuses to supply the information***.[or to]*** allow an examination, or fails to give satisfactory identification, the horse and the owner or party shall be barred and suspended or expelled.

Section 5. Identification Requirements. A horse shall not start at an extended pari-mutuel meeting if the horse has not:
(1) Been tattooed***;[,]***
(2) Been freeze branded; or
(3) Received an electronic horse identification microchip which:
(a) Accurately identifies the horse; and
(b) Complies with the international standard ISO 11784:1996/Amd 1:2004.

Section 6. False Chart Lines. An official, clerk, or person who enters a chart line on an electronic eligibility certificate if the race has not been charted by a licensed charter shall be in violation of this administrative regulation.

Section 7. Withholding Registration. A person withholding a registration certificate from the owner or lessee of a horse, after proper demand has been made for the return ***of the certificate[thereof]***, shall be suspended until the certificate is returned.

Section 8. Incorporation by Reference.
(1) "ISO 11784, Radiofrequency identification of animals," 1996/Amd 1:2004, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
FILED WITH LRC: November 15, 2018 at 9 a.m.
CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:030. Claiming races.

RELATES TO: KRS ***139.531(1)(c),*** 230.215, 230.260(1)
STATUTORY AUTHORITY: KRS 230.215(2), 230.260***[(3)]***
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260***[(3)]*** authorize the commission to regulate conditions under which harness racing shall be conducted in Kentucky. This administrative regulation establishes the requirements for claiming races.

Section 1. (1) A horse entered in a claiming race may be claimed for its entered price by:
(a) A licensed horse owner who has a horse programmed to start in a pari-mutuel race at that meeting;
(b) A licensed horse owner who has received a claim certificate from the commission; or
(c) A person who has qualified for a license as a horse owner and who has received a claim certificate from the commission.

(2) Upon filing ***with the judges*** a completed***,*** signed Authorized Agent form (KHRC 2-060-01)***, incorporated by reference in 810 KAR 2:060[~~with the judges~~]***, an authorized agent may claim for a qualified owner in his own right, but only for the account of the person for whom he is agent.

(3) To qualify for a license as an owner, the applicant shall have a current United States Trotting Association or Standardbred Canada membership as an owner or membership as an associate-member.

(4) A person shall not knowingly effect a false claim by inducing another to claim a horse for him or her.

Section 2. Prohibitions.

(1) A person shall not claim his or her own horse and shall not claim a horse trained or driven by him or her.

(2) A person shall not claim more than one (1) horse in a race.

(3) A qualified owner or the owner's agent shall not claim a horse for another person.

(4) An owner shall not cause his or her horse to be claimed directly or indirectly for his or her own account.

(5) A person shall not offer, or enter into an agreement, to claim or not to claim or attempt to prevent another person from claiming any horse in a claiming race.

(6) A person shall not enter a horse that has a mortgage, bill of sale, or lien of any kind pending, unless the written consent of the holder is filed with the clerk of the course of the association conducting that claiming race.

(7) (a) A person shall not have more than one (1) claim on any one (1) horse in any claiming race.

(b) Owners utilizing the same trainer may claim different horses from the same race. The trainer shall not act on behalf of either owner if the trainer has more than one (1) horse in the same race.

Section 3. Claiming Procedure. (1) Owner's credit.

(a) A person submitting a claim shall provide to the association:

1. Proof of possession of a valid license issued by the commission for the current year;

2. An amount equivalent to the specified claiming price plus the existing Kentucky sales tax as authorized by KRS 139.531(c); and

3. The United States Trotting Association fee for transfer of registration.

(b) By accepting the claim, the association assumes responsibility for and shall make payment to the owner of the horse claimed.

(c) The money due for a claimed horse shall be paid to the owner of the claimed horse within forty-eight (48) hours after the end of the race***, [(]***Sundays excepted***,[)]]*** by the association, if the horse has a current test complying with subsection (14) of this section and if a signed claiming authorization and proper registration papers are provided to the clerk of the course.

(2)[(3)] The claiming price shall be printed on the program***,*** and all claims shall be for the amount so designated***.[and]*** Any horse entered in a claiming race may be claimed for the designated amount.

(3)[(4)] A claim shall be in writing, sealed***,*** and deposited at least thirty (30) minutes before the time originally scheduled for the race to begin in a locked box or designated location provided for this purpose by the commission.

(4)[(5)] The claim shall be examined by the judges or their designee prior to the start of the race. The association's designee shall be prepared to state whether sufficient funds are on deposit in the amount equivalent to the specified claiming price and any other required fees and taxes. The judges shall have a public announcement made and information scrolled on the simulcast video stating there has been a claim made or, in the case of multiple claims, the number of claims made on a horse during the post parade. The successful claimant ***shall[will]*** be announced after the completion of the race.

(5) An official shall not open the claim box or give any information on claims filed until after the horses leave the paddock for the post parade.

(6) If more than one (1) claim is filed for the same horse, the owner shall be determined by lot by the judges.

(7) A horse claimed shall be delivered immediately by the original owner or his or her trainer to the successful claimant upon authorization of the judges after the post-race tests are finished; and:

(a) The horse's halter shall accompany the horse;

(b) The horse's shoes shall not be altered or removed; and

(c) The hobble measurements of a claimed horse shall be made available to the successful claimant by the paddock judge.

(8) An owner shall not refuse to deliver a horse legally claimed out of a claiming race.

(9)(a) A horse claimed shall race in all heats or dashes of the event in the interest and for the account of the owner who declared it in the event.

(b) Title to the claimed horse shall be vested in the successful claimant from the time the word "go" is given in the first heat or dash.

(c) The judges shall void the claim and return the ***title[~~horse~~]*** to the original owner if:

1. The horse suffers a fatality during the running of the race or dies or is euthanized before leaving the track; or

2. The commission veterinarian determines the horse will be placed on the Veterinarian's List as bled, unsound, or lame before the horse is released to the successful claimant.

(d) The judges shall not void the claim if, prior to the race in which the horse is claimed, the claimant indicates on the claim envelope that he or she elects to claim the horse regardless of whether the commission veterinarian determines the horse will be placed on the Veterinarian's List as bled, unsound, or lame.

(e) The final vesting of title to a claimed horse shall be subject to the conditions and provisions set forth in this administrative regulation.

(10) (a) The judges may require any person making a claim for a horse to affirm by affidavit that the claimant is claiming the horse for his or her own account or as authorized agent and not for any other person.

(b) A person shall not knowingly make a false statement regarding the claiming process.

(11) (a) A claimed horse may start in a race in which the claiming price is less than the price at which the horse was claimed.

(b) If a horse is claimed, a right, title, or interest in that horse shall not be sold or transferred ***for a period of thirty (30) days following the date of claiming,*** except in a claiming race***[~~for a period of thirty (30) days following the date of claiming~~]***.

(c) A claimed horse shall be required to race at the association where claimed for a period of thirty (30) days or the balance of the current racing meeting, whichever occurs first.

(12) A horse that has been claimed shall not be eligible to start in a race in the name or interest of the previous owner for thirty (30) days. The horse shall not remain in the same stable, or under the care or management of the first owner or trainer, or anyone connected with the previous owner unless reclaimed out of another claiming race.

(13) A horse scratched from a claiming race shall not be eligible to be claimed.

(a) If a horse drawn to start in a claiming race is claimed and has been declared to start in a subsequent race, that horse shall be scratched from that race.

(b) For a period of thirty (30) days, a horse scratched from a claiming race and then entered in a subsequent race***, [(]***regardless of classification***,[)]]*** shall not be eligible to be claimed at any association licensed by the commission for the same claiming price the horse was carrying in the race from which it was scratched, except scratches that were due to and verified as race office errors.

1. The claiming price ***shall[~~must~~]*** be listed in the program where normal claiming prices are carried***;***

2. The[~~and~~] announcement of the right to claim ***shall be[~~is~~]*** made by the track announcer***;*** and

3. The claiming price shall be scrolled on the simulcast provider.

(14)(a) A claimed horse not otherwise selected by the judges for post-race testing shall be subjected to post-race testing in blood for the presence of substances regulated by 810 KAR Chapter 8. The results of the test shall be reported to the presiding judge.

(b) If a test is positive for a substance associated with a Class A, B, or C penalty, or for a TCO2 violation, the claim may be voided at the option of the claimant and the claimant shall be entitled to return of all sums paid for the claimed horse and of all expenses incurred after the date of the claim.

(c) While awaiting test results, a claimant:

1. Shall exercise due care in maintaining and boarding a claimed horse; and

2. Shall not materially alter a claimed horse.

(d) An Equine Infectious Anemia (Coggins) test shall not be required of a horse that has been claimed if that horse has a valid certificate stating that within twelve (12) months of the day of the claim the horse has received a Coggins test and is negative for Equine Infectious Anemia. The certificate shall contain the horse's lip tattoo number or a uniform or standardized means of identification approved by the commission.

(15) (a) A filly or mare that has been bred shall not be declared into a claiming race for at least forty-five (45) days following the last breeding of the filly or mare. Following that period, a filly or mare that has been bred shall be declared into a claiming race only after a veterinarian has pronounced the filly or mare not to be in foal.

(b) A filly or mare pronounced in foal shall not be declared into a claiming race.

(c) If a filly or mare is claimed out of a claiming race and subsequently proves to be in foal from a breeding that occurred prior to the race from which she was claimed, the claim may be voided by the judges at the option of the claimant, if the mare is subjected to a pregnancy examination no later than twenty-one (21) days after the date of the claim ***that shows the mare is pregnant[, and is found to be pregnant as a result of that pregnancy examination]***.

(d)1. A claimant seeking to void the claim shall file a petition to void that claim with the judges within three (3) days after the results of the pregnancy examination are received. Following the filing of the petition, the judges shall conduct a hearing after due notice to all parties.

2. If the judges determine that the claim is void, the claimant shall receive a reasonable cost from the previous owner to cover the cost of the pregnancy examination and reimbursement from the previous owner of all reasonable costs associated with the claiming process and the post-race test, including the costs of transportation, board, reasonable training fees, and the testing process.

Section 4. In accordance with Section 3(1)(b) of this administrative regulation, the association shall pay the claiming price to the owner ***when[at the time]*** the registration certificate and a signed claiming authorization are delivered for presentation to the successful claimant***. The association[and]*** shall withhold and pay the Kentucky sales tax to the Commonwealth pursuant to KRS 139.531(c).

Section 5. Claiming Conditions.

(1) Unless prior approval is given by the presiding judge, claiming races shall be written to separate horses five (5) years and older from younger horses and to separate males from females.

(2)(a) If sexes are mixed, mares shall be given a twenty (20) percent minimum price allowance, except there shall ***not*** be ***any[no]*** price allowance given to a spayed mare racing in a claiming race.

(b) An allowance for age shall be given as follows:

1. Two (2) year olds shall be given a 100 percent allowance;

2. Three (3) year olds shall be given a fifty (50) percent allowance; and

3. Four (4) year olds shall be given a twenty-five (25) percent allowance.

(c) Claiming races for two (2) year olds may have conditions.

(d) Claiming races for three (3) year olds may have conditions.

(e) A claiming class may have conditions, if deemed necessary by the racing secretary and approved by the judges.

Section 6. Except as provided in 810 KAR 5:020, Section ***16[20]***, a horse owner shall not be prohibited from determining the price for which his horse shall be entered.

Section 7. To facilitate transfer of claimed horses, the presiding judge or racing secretary may sign the transfer if he or she then sends the registration certificate and claiming authorization to the registrar for transfer.

Section 8. Fraudulent Claim.

(1) ***A[No]*** person shall ***not*** fraudulently declare a horse to a claiming race. If the judges determine that the declaration of a horse to a claiming race is fraudulent on the part of the declarer, they shall void the claim at the option of the claimant, and order the horse returned to the person declaring it in.

(2) ***A[No]*** person shall ***not*** submit a fraudulent claim on a horse in a claiming race. If the judges determine that a claim of a horse is fraudulent on the part of the person making the claim, they shall***:***

(a) Void the claim at the option of the person declaring it in***;[,]*** and

(b) Return the horse to the person declaring it in.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:040. Farm, corporate, or stable name.

RELATES TO: KRS 230.215, 230.310

STATUTORY AUTHORITY: KRS 230.215(2), 230.260***(9), (11)[(3)]***

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for the licensing of racing stables under the stable name and disclosure of ownership.

Section 1. (1) Registration Required. A racing, farm, corporate, or stable name may be used by an owner or lessee if registered with:

(a) The U.S. Trotting Association; and

(b) The commission.

(2) A person shall provide his or her name to the commission if he or she has:

(a) An interest in the stable; or

(b) Intends to utilize its name.

(3) A person listed in a registered stable ***that is*** racing a horse shall have a license issued by the Kentucky Horse Racing Commission ***in accordance with 810 KAR 3:020***. An owner and any person listed in a registered stable shall be liable for entry fees and penalties imposed upon the registered stable.

Section 2. Suspension. If one (1) of the owners or persons listed in a registered stable is suspended, all of the horses in that stable shall be included in the suspension.

Section 3. Corporate and Limited Partnership Ownership.

(1)(a) If a horse is owned by a corporation, the corporation and any officer, director, or stockholder owning five (5) percent or more of the stock shall be licensed by the United States Trotting Association and the commission.

(b) A stockholder owning less than five (5) percent of the stock shall be reported monthly by the corporation to the commission, but shall not be required to be licensed by the commission. The information to be reported shall include names and amount of stock owned, address, Social Security number, and date of birth.

(2)(a) If a horse is owned by a limited partnership, the general partner and all limited partners owning an interest of five (5) percent or more shall be licensed by the United States Trotting Association and the commission.

(b) A limited partner owning less than a five (5) percent interest shall be reported monthly to the commission**,** and the required information shall include names and interests owned, address, Social Security number, and date of birth. A limited partner owning less than a five (5) percent interest shall not be required to be licensed by the commission.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:050. Stakes and futurities.

RELATES TO: KRS 230.215, 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260***(8)***~~[(3)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260***(8)***~~[(3)]~~ authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for stakes and futurities.

Section 1. (1) Application. A stake or futurity sponsor or presenter shall submit an annual application to the commission for approval not less than 120 days prior to taking payments. The application shall contain:

(a) Satisfactory evidence that purse money is available;

(b) Proposed conditions;

(c) Sums to be deducted for organization or promotion; and

(d) An agreement to file with the commission a surety bond in the amount of the advertised purse, conditioned on faithful performance of the conditions, including guarantees that:

1. The stake or futurity will be raced as advertised unless:

a. Unanimous consent is obtained from owners of eligibles to transfer or change the date of the race; or

b. Prevented by a natural disaster or conditions beyond the control of the sponsor; and

2. Ensure the segregation of funds and an assurance that the sponsor or presenter shall make all payments.

3. If the association furnishes evidence of the availability of funds to conduct the race in a manner satisfactory to the commission, that evidence may be accepted in lieu of surety bond.

(2) Waiver of bond. The requirement to post a surety bond may be waived by the commission:

(a) Upon written request of a sponsor:

1. That is an association;

2. Whose financial statement shows a net worth of not less than five (5) times the amount of trust funds received from payments in stakes and futurities; and

3. Who furnishes a certified copy of the bank deposit in lieu of bond; or

(b) If bond is posted with the United States Trotting Association.

(3) Trust funds. Collections resulting from the forfeiture of a bond shall be paid to the contestants according to the order of finish, or if the race is not contested, shall be divided equally among owners or eligibles on the date the breach of conditions occurs.

(4) Appeal of application rejection. An applicant may appeal the rejection of an application to the commission by registered mail within twenty (20) days after the mailing of the notice of rejection. The appeal shall be in writing to the executive director.

(5) Receipt of printed conditions. ***Printed conditions of all stakes and futurities shall be submitted to and received by*** the commission***[***~~must receive printed conditions of all stakes and futurities~~***]*** by their closing dates.

(6) Conflicting conditions. Stakes and futurities conditions which conflict with KRS Chapter 230 or Title 810 KAR shall be refused.

(7) A sponsor or presenter shall:

(a) Provide or make available to the commission a list of nominations within sixty (60) days after the date of closing***;[***~~.~~***]***

(b) Furnish to the commission, by January 15th of each year, a financial statement for the preceding year and, within thirty (30) days following the day of the race, a final financial statement;

(c) Notify all nominators and the commission within twenty (20) days of closing if the stake or futurity does not fill;

(d) Provide or make available to the commission, within twenty (20) days of closing, a complete list of all horses remaining eligible, segregated by age, sex, and gait***;[***~~.~~***]***

(e)***1.*** Provide or make available ***to the owners or agents of all eligibles and to the commission***, within twenty (20) days following the last payment before the starting fee***:***

a.[~~,~~***]*** A complete list of all horses remaining eligible, segregated by age, sex, and gait***; and***

b.[~~, to the owners or agents of all eligibles and to the commission, together with~~***]*** A list of any nominations transferred or substituted**,** if permitted by the conditions.

2.The list of eligibles shall include a resume indicating the current financial status of the stake and futurity, or of each individual division if there is more than one (1) division, by listing the number of horses remaining eligible, the amount of money that has been paid in, and the amount to be added. The purse shall constitute this amount plus starting fees, if any;

(f) Set the nominating date and the dates for sustaining payments**,** ***[(***except the starting fee***,])]*** for the 15th day of the month.

1. There shall ***not*** be ***any[***~~no~~***]*** payments on yearlings except a nomination payment which shall be due ***by[***~~not later than~~***]*** August 15.

2. Before receiving any sustaining payments during the year the race is to be contested, the date and place of the race shall be stated. A stake or futurity sustaining fee shall not be due prior to February 15 of any year. There shall ***not*** be ***any[***~~no~~***]*** conditions that require payments in stakes or futurities after August 15 and before February 15 of the following year.

3. The date for closing of the nominations of yearlings to stakes shall be May 15 and the date for closing of the nominations to futurities shall be July 15.

4. There shall be a maximum of one (1) sustaining payment on two (2) year olds in stakes and futurities that do not have a two (2) year old division; and

(g) Advertise the week and place, if possible, that the stake or futurity will be raced before taking nominations. If either the week or place, or both, cannot be announced before taking nominations, that information shall be furnished as soon as the stake or futurity is sold or awarded.

(8) Estimated purse. An estimated purse shall not be advertised or published in excess of the actual purse paid or distributed during the previous year, unless increased by guaranteed added money. A stake or futurity shall not be raced for less than seventy-five (75) percent of the average estimated purse.

Section 2. (1) If an event is not raced due to circumstances beyond the control of a nontrack operating sponsor, the sponsor

shall not be required to contribute a sum as added money, but instead shall only refund such nominating, sustaining, and starting fees as it has collected toward the canceled event.

(2) A stake or futurity shall not be approved for extended pari-mutuel meetings if the added money is not at least thirty (30) percent of the purse. For all other meetings at least ten (10) percent of the purse shall be added.

(3) If a stake or futurity is split into more than two (2) divisions, the conditions of the race shall determine the divisions of the purse.

Section 3. Failure to Make Payment. Failure to make any payment required by the conditions shall constitute an automatic withdrawal from the event.

Section 4. Refund of Nomination Fee. If a mare nominated to a futurity fails to have a live foal, the nominator shall receive a return on his or her payment if notification is given by December 1 of the year the mare failed to foal. If conditions permit, the nominator may substitute.

Section 5. A sponsor shall not pay monetary awards to nominators or breeders from stake or futurity funds.

Section 6. Deductions Prohibited. A deduction, voluntary or involuntary, shall not be made from any purse, stake, or futurity unless the conditions specifically so provide. If deductions are permitted, reasonable deductions may be made for clerical, printing, postage, and surety bond expenses specifically related to the purse, stake, or futurity.

Section 7. Unless otherwise specified in the conditions of a stake or futurity, the money division shall be:

(1) Five (5) or more starters:

(a) Fifty (50) percent to the winning horse***;***

(b)[,] Twenty-five (25) percent to the horse that finishes second***;***

(c)[,] Twelve (12) percent to the horse that finishes third***;***

(d)[,] Eight (8) percent to the horse that finishes fourth***;[,]*** and

(e) Five (5) percent to the horse that finished fifth;

(2) Four (4) starters only:

(a) Fifty (50) percent to the winning horse***;***

(b)[,] Twenty-five (25) percent to the horse that finishes second***;***

(c)[,] Fifteen (15) percent to the horse that finish third***;[,]*** and

(d) Ten (10) percent to the horse that finishes fourth;

(3) Three (3) starters only:

(a) Fifty-five (55) percent to the winning horse***;***

(b)[,] Thirty (30) percent to the horse that finishes second***;[,]*** and

(c) Fifteen (15) percent to the horse that finishes third; and

(4) Two (2) starters only:

(a) Sixty-five (65) percent to the winning horse***;*** and

(b) Thirty-five (35) percent to the horse that finishes second.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:060. Entries and starters.

RELATES TO: KRS 230.215, 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for entries.

Section 1. Entries. An entry shall:

(1) Be made in writing, by telephone, or electronically to the association racing secretary's office;

(2) Include the following information pertinent to the entry:

(a) The name of the horse;

(b) The name of the trainer;

(c) The name of the driver; and

(d) The class of the race into which the horse is to be entered; and

(3) Comply with the provisions of Section ***18[~~20~~]*** of this administrative regulation if the entry concerns an overnight event.

Section 2. Payment of Entry Fee. An entry fee shall be due and payable with declaration to start and shall not be refunded if the horse fails to start***,*** unless the horse dies between the time of declaration to start and the start of the race.

Section 3. Receipt of Entries for Early Closing Events, Late Closing Events, Stakes and Futurities.

(1) An entry that is not received prior to the hour of closing shall be ineligible.

(a) If an entry or payment in a stake, futurity, or early closing race is payable on a Sunday or a legal holiday that falls on Saturday, the payment shall be due on the following Monday, and if made by mail***,*** the envelope shall be postmarked on or before the following Tuesday.

(b) If a payment is due on a Monday that is a legal holiday, the payment ***shall be[~~is~~]*** due on ***the following*** Tuesday, and if made by mail***, the envelope*** shall be postmarked on or before the following Wednesday.

(2) Postage meter. If an entry is received by letter bearing the postage meter date without a postmark, the postage meter date shall be considered to be a postmark if the letter is received within seven (7) days following the closing date of the event. A letter received later than seven (7) days following the closing date of the event shall not be considered a valid entry or payment.

Section 4. Deviation from Published Conditions. An entry and payment not governed by published conditions shall be void and any deviation from published conditions shall be a violation of this administrative regulation. A nominator who is allowed privileges not in accordance with the published conditions of the race, or which are in conflict with the published conditions or with Title 810 KAR, shall be barred from receiving any portion of the purse, and any person who knowingly allows the privileges shall be in violation of this administrative regulation.

Section 5. (1) Ineligible Horse in a Stakes Race.

(a) A nominator shall be required to guarantee the identity and eligibility of entries and declarations. If a nominator provides incorrect information, winnings shall be forfeited and redistributed to eligible entries***,*** and the person who provided the information shall be in violation of this administrative regulation.

(b) A person who obtains a purse or money through fraud or error, with the exception of paragraph (c) of this subsection, shall surrender or repay the proceeds upon demand. If the proceeds are not repaid upon demand, the horse that was the subject of the fraud or error, and all persons involved, shall be in violation of this administrative regulation and subject to suspension or revocation until repayment is made.

(c) If a horse is declared ineligible as a result of the negligence of the race secretary, the association shall reimburse the owner for the resultant loss of winnings.

(2) Ineligible horse drawn into overnight race. The trainer shall be responsible for entering the horse in the race for which it is eligible.

Section 6. Transfer of Ineligible Horse. A horse entered in an event for which it is not eligible may be transferred to any event for which it is eligible at the same gait.

Section 7. Withholding Purse on Ineligible Horse. An association shall withhold the purse of a horse, with or without a formal protest, if the association receives information that the entry or declaration was fraudulent or ineligible.

Section 8. Agreement to Race Under Rule. An entry shall constitute an agreement that the horse to be entered and all persons associated with or having control of the horse shall abide by Title 810 KAR.

Section 9. Early Closing Events and Late Closing Races.

(1) Date and place. The sponsor shall state the place and date the event will be raced***,*** and ***there shall not be a[~~no~~]*** change in ***the*** date, program, events, or conditions***[~~shall be made~~]*** after the nominations have been taken without the written consent of the owners or trainers of all horses eligible ***when[~~at the time~~]*** the conditions are changed.

(2) Filing conditions. An entry blank shall be filed with the commission.

(3) Payments shall be made on or before the 15th day of the month. Nominations and payments other than starting fees in early closing events shall be advertised to be received on the 15th day of the month.

(4) List of nominations. A complete list of nominations to any late closing race or early closing event shall be made available within twenty (20) days after the date of closing to each nominator and the commission.

(5) Procedure if event does not fill. If the event does not fill, each nominator and the commission shall be notified within ten (10) days***,*** and ***a*** refund of nomination fees shall accompany the notice.

(6) Transfer provisions for change of gait.

(a) The following conditions shall govern transfers if there is a change of gait, unless the association makes available to the commission, at least thirty (30) days prior to the first publication, its early closing conditions and receives the approval of the commission for those conditions:

1. If a condition published for early closing events allows transfer for change of gait, the transfer shall be to the slowest class for which the horse is eligible, and eligibility shall be determined at time of closing of entries.

2. The race to which transfer may be made shall be the race nearest in time to the date of the event for which the horse was originally entered.

(b) A two (2) year old, three (3) year old, or four (4) year old entered in a class that corresponds to its age group shall be permitted to transfer only to a class for the same age group at the adopted gait, and shall be the race nearest in time to the date of the original event. If transfer is made, entry fees shall be so adjusted.

Section 10. Subsequent Payments; List of Eligibles. If subsequent payments are required by the published conditions, a complete list of those horses withdrawn or declared out shall be made within fifteen (15) days after***:***

(a) The payment was due***; and***

(b)[~~and~~] The list has been made available to each nominator and the commission.

Section 11. Trust Funds. Fees paid in early closing events shall be segregated and held as trust funds until the event is contested.

Section 12. Early Closing Events by New Track. An early closing event at a pari-mutuel meeting shall not be advertised, nor shall nominations be taken for an early closing event, until the event has been approved by the commission. An association accepting nominations to early closing races, late closing races, stakes, or futurities shall provide stable space to a horse nominated and eligible to the event the day before, the day of, and the day after the race.

Section 13. Limitation on Conditions. Conditions of an early closing event or a late closing race shall not add a horse that has not been nominated to an event or eliminate an already nominated horse from an event by reason of the performance of the horse at an earlier meeting during the same season, and conditions purporting to do so shall be considered to be invalid. An early closing event or a late closing event shall not have more than two (2) also eligible conditions.

Section 14. Purse Requirements. In early closing races, late closing races, and overnight races requiring entry fees, all monies paid in by the nominators in excess of eighty-five (85) percent of the advertised purse shall be added to the advertised purse and the total shall then be considered to be the advertised purse. In addition to adding excess entry fees as provided in this section, the sponsor shall add at least fifteen (15) percent to the advertised purses of late closing races and overnight races. Fifteen (15) percent of all monies paid in by the nominators shall be added to all early closing races by the sponsor.

Section 15. Requirement to Run Race.

(1) An association shall specify how many entries are required for overnight events and, after the condition is fulfilled, the race shall be run unless declared off as provided in 810 KAR 5:070.

(2) If six (6) or more betting interests are declared in to start an early closing event or a late closing event, the race shall be run, unless it is declared off. Stakes and futurities shall be raced if one (1) or more horses are declared in to start unless declared off as provided in 810 KAR 5:070.

(3) In an early closing event, if fewer horses are declared in than are required to start, and all declarers are immediately so notified, the horse or horses declared in and ready to race shall be entitled to the sum of the entry fees submitted.

Section 16. Elimination Heats or Two (2) Divisions

(1) If the number of horses declared in to start exceeds twelve (12) on a half-mile track or sixteen (16) on a larger track, the association conducting the race shall have the option, before positions are drawn, of announcing that the race shall be run in elimination heats. A maximum of two (2) tiers of horses, allowing eight (8) feet per horse, shall start in any race.

(2) If an early closing event or late closing event is divided, each division shall race for at least seventy-five (75) percent of the advertised purse unless otherwise specified in the conditions of the race.

(3) If a stake race or futurity is divided, the conditions of the race shall determine the number of starters per division and the purse distribution.

Section 17. Elimination Plans.

(1) If elimination heats are required, or are specified in the published conditions, the race shall be run in the following manner unless otherwise stated in the conditions or conducted under another section of this administrative regulation. The field shall be divided by lot, and:

(a) The first division shall race a qualifying dash for thirty (30) percent of the purse;

(b) The second division shall race a qualifying dash for thirty (30) percent of the purse;

(c) The horses so qualified shall race in the main event for forty (40) percent of the purse; and

(d) The winner of the main event shall be the race winner.

(2) ***Unless otherwise specified in the conditions of the race,*** the judges shall draw the starting positions for the main event and shall determine***:***

(a) Which of the dash winners shall have the pole and which the second position***; and***

(b)[~~,~~] Which of the two (2) horses that have been second shall start in third position,***[~~and~~]*** which in fourth position,***[~~in~~]*** similarly in succession***[~~, unless otherwise specified in the conditions of~~***

~~*the race]*~~. An elimination dash and the concluding heat shall be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions.

(3) If there are three (3) or more separate heat or dash winners, those winners shall return for a single event race-off to determine the race winner. For that single event race-off, the participating horses shall be assigned post positions according to the order of their finish in the previous heat or dash.

Section 18. Overnight Events. More than nine (9) horses shall not start on a half-mile track in overnight events and more than twelve (12) horses shall not start on larger tracks at extended pari-mutuel meetings allowing eight (8) feet per horse.

Section 19. Elimination Race for Early Closing Event, Stake, or Futurity. If elimination races are provided for in the conditions of an early closing event, stake, or futurity, the elimination race shall be held not more than five (5) days prior to contesting the main event (excluding Sunday) and omitting the day of the race.

Section 20. Declaration.

(1) Extended pari-mutuel meetings. The declaration time shall be the time posted on the condition sheet.

(2) A horse shall not start in more than one (1) race on a racing day.

(3) The time when declarations close shall be the time in use at the meeting.

(4) The association shall provide an entry box with an aperture through which declarations shall be deposited.

(5) At the close of entries the presiding judge or the race secretary shall remove any entries in the box and sort the declarations at the time specified on the condition sheet.

(6) If it is necessary to reopen any race, a minimum of two (2) public announcements shall be made***,*** and the box shall be reopened at the announced time.

(7) In races of a duration of more than one (1) dash or heat at a pari-mutuel meeting, the judges may draw post positions from the stand for succeeding dashes or heats.

(8) Effect of failure to declare on time. If an association requires a horse to be declared at a stated time, failure to declare at that time shall be considered a withdrawal from the event.

(9) After declaration to start has been made, a horse shall be withdrawn only:

(a)~~*[1.]*~~ Because of sickness, lameness, injury, or hazardous track conditions; and

(b)~~*[2.]*~~ With the permission of the presiding judge.

(10) Horse omitted through error.

(a) Except as provided in this subsection, a drawing shall be final unless there is conclusive evidence that a horse was properly declared and omitted from the race***,*** and ***the omission is*** verified ***to be*** due to an error of the association's racing office.

(b) The race ***shall***~~*[must]*~~ be redrawn if the error is found prior to scratch time.

(c) If the race has multiple divisions, a horsemen's representative and a judge shall draw the division by lot rather than redraw the entire race.

(d) If there is a division or divisions with short fields, the division or divisions shall be chosen by lot to determine which division shall be drawn.

(e) If the error is found after scratch time, then the horse ***shall***~~*[will]*~~ be added to the outside.

Section 21. Qualifying Races. At an extended pari-mutuel meeting, declarations for overnight events shall be governed by the following:

(1)(a) Within forty-five (45) days of being declared in, a horse that has not raced previously at the gait chosen shall:

1. Complete a qualifying race in compliance with the conditions set forth by the association under the supervision of a judge holding a presiding or associate judge's license for pari-mutuel meetings; and

2. Acquire at least one (1) charted line by a licensed charter.

(b) Time and beaten lengths shall be determined by a standard photo finish.

(2)(a) The requirements of subsection (1) of this section shall apply to a horse that does not show a charted line for:

1. The previous season; or

2. Within its last six (6) starts.

(b) Uncharted races contested in a heat of more than one (1) dash, and consolidated according to subsection (4) of this section, shall be considered one (1) start.

(3)(a) The requirements of subsection (2) of this section shall not apply if a horse:

1. Has raced at a charted meeting during the current season; and

2. Has two (2) meetings at which the races are not charted.

(b) The information from the uncharted races may be:

1. Summarized, including each start; and

2. Consolidated in favor of charted lines.

(4) If the race is less than one (1) mile, the consolidated line shall list the carry date, place, time, driver, finish, track condition, and distance.

(5)(a) The judges shall require a horse that has been on the judge's list to successfully complete a qualifying race.

(b) If a horse has raced in individual time not meeting the qualifying standards for that class of horse, after making allowance for track variations, the horse shall be required to successfully complete a qualifying race.

(6) A horse shall be required to qualify in a qualifying race if it is on the judge's list for any of the following:

(a) Repeated breaks on a fast or good track;

(b) Scratched sick or lame in two (2) consecutive starts, scratched sick or lame following a qualifier***,*** or scratched sick or lame prior to or after a break line on a good or fast track;

(c) Refusing to come to the gate. Horses causing two (2) recalls shall be scratched and placed on the starter and qualifying list;

(d) Poor performance; or

(e) Being unmanageable.

(7) Qualifying races shall be:

(a) Held at least one (1) week prior to the opening of a meeting of ten (10) days or more; and

(b) Scheduled as needed through the last week of the meeting.

(8)(a) A race to qualify drivers and horses shall be charted, timed, and recorded.

(b) A race to qualify only drivers shall not be required to be charted, timed, and recorded.

(9)(a) Except as provided in paragraph (b) of this subsection, if a horse takes a win record in a qualifying race, the record shall be prefaced with the letter "Q".

(b)1. The record shall not be prefaced with the letter "Q" if, immediately prior to or following the race, the horse has been submitted to an approved urine, saliva, or blood test.

2. The presiding judge shall report the test on the judge's sheet.

(10) Before it is permitted to start in a race with pari-mutuel wagering, a horse ***shall***~~*[must]*~~ have a clean charted line within forty-five (45) days and meet the standards of the meeting.

(11) A horse shall not enter more than one (1) qualifying race per day.

Section 22. Coupled Entries.

(1)(a) Except as provided by the provisions of this section, two (2) or more horses shall be coupled as a single entry if they are:

1. Owned or trained by the same person; or

2. Trained in the same stable by the same management.

(b) A wager on one (1) of the horses coupled as an "entry" shall be a wager on all horses in the entry.

(2)(a) If a trainer enters two (2) or more horses, under bona fide separate ownerships or the same ownership, each horse may race as a separate betting entry if:

1. The association has requested they be permitted to race as separate betting entries; and

2. The judges approve the request.

(b) In overnight events the entries do not exclude any single

interest.

(c) In overnight events, part of an uncoupled entry drawing also eligible may not be moved into a race to replace another part of the uncoupled entry.

(d) If more than one (1) horse is trained by the same person, that fact shall be stated prominently in the program.

(e) The judges may place both horses in an uncoupled entry if the judges deem that the actions of one part of ***the*** uncoupled entry helped or improved the other.

(f) If the race is split in two (2) or more divisions, horses coupled or uncoupled in a single entry shall be seeded insofar as possible, in the following order, by:

1. Owners;
2. Trainers; and
3. Stables.

(g) Divisions and post positions shall be drawn by lot.

(h) Elimination heats also shall be governed by the provisions of paragraphs (f) and (g) of this subsection.

(3) The presiding judge or the race secretary shall be responsible for coupling horses.

(4)(a) If it is necessary to protect the public interest, horses that are separately owned or trained may be coupled for pari-mutuel wagering; and

(b) An entry shall not be rejected on that basis.

(5) If an owner, lessor, or lessee has a vested interest in another horse in the same race, it shall constitute an entry.

Section 23. Also Eligibles.

(1) More than two (2) horses shall not be drawn as also eligibles for a race.

(2) The positions of also eligibles shall be drawn along with the starters in the race.

(3) If one (1) or more horses are excused by the judges, the also eligible horse shall:

(a) In handicap races in which the handicap is the same, take the place of the horse that it replaces;

(b) In handicap races in which the handicap is different, take the position on the outside of the horses with a similar handicap; or

(c) In other races, take the post position drawn by the horse it replaces.

(4) A horse shall not be added to a race as an also eligible unless the horse was drawn at the time declarations closed.

(5)(a) A horse shall not be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list shall not be drawn without the permission of the judges.

(b) The owner or trainer of a horse moved into the race from the also eligible list shall be notified that the horse is in to go.

(6) A horse on the also eligible list that is not moved into race by scratch time of the track shall be released.

Section 24. Preference.

(1)(a) Preference shall be given in overnight events according to a horse's last previous purse race during the current year.

(b) The preference date on a horse that has drawn to race and has been scratched shall be the date of the race from which the horse was scratched.

(2) If a horse is racing for the first time in the current year, the date of the first successful qualifier shall be considered the horse's last race date, and preference shall be applied accordingly.

(3)(a) If an error has been made in determining or posting a preference date, and the error deprives an eligible horse of an opportunity to race, the trainer involved shall report the error to the racing secretary within one (1) hour of the announcement of the draw.

(b) If a preference date error has occurred, the race shall be redrawn.

Section 25. Judge's List.

(1)(a) A horse shall be placed on a judge's list by the presiding judge if it is unfit to race because it:

1. Is dangerous;
2. Is unmanageable;
3. Is sick;
4. Is lame;***[~~or~~]***
5. Is unable to show a performance to qualify for races at the meeting; or
6. Has exhibited repeated breaks.

(b) The owner or trainer shall be notified in writing***:***

1. If[~~when~~] a horse is placed on a judge's list***;[~~,~~]*** and

2. Of the specific item listed in paragraph (a) of this subsection upon which the action is based.

(c) Declaration on a horse placed on a judge's list shall be refused.

(d) If a horse is placed on a judge's list, the clerk of the course shall make a note on the electronic eligibility of the horse stating the:

1. Date it was placed on the judge's list;
2. Reason it was placed on the judge's list; and
3. If the horse has been removed from the judge's list, the date of its removal.

(2)(a) A presiding judge or other official at a non-extended meeting shall not remove from the judge's list and accept as an entry a horse that:

1. Has been placed on a judge's list; and
2. Has not been removed from the judge's list because it is dangerous or unmanageable.

(b) A presiding judge shall refuse declarations on a horse that has been placed on, but not removed from, a judge's list.

(3) A horse scratched from a race because of lameness or sickness shall not race for a period of seven (7) days beginning with the day of the scratch.

Section 26. Driver.

(1) A declaration shall state the name of the horse's driver and the driver's colors.

(2) A driver shall not be changed after scratch time of the track without the permission of the judges. The judges shall grant permission if:

(a) The driver is unable to be on the premises for a good-faith reason beyond his or her control; or

(b) The driver is on the premises but unable to participate due to illness or injury.

(3) If a nominator starts two (2) or more horses, the judges shall approve the second and third drivers if no conflicts of interest exist between the ownership of the horses and the drivers.

Section 27. Withdrawals and Scratches.

(1) The presiding judge shall call a meeting of all horsemen on the grounds before the opening of an extended pari-mutuel meeting to appoint a committee to consist of the presiding judge, a representative of the association, and a representative of the Kentucky Harness Horseman's Association to consider matters relating to the withdrawal of horses due to bad track or weather conditions.

(2)(a) If track conditions are questionable due to weather, the presiding judge shall call a meeting of the committee ***established pursuant to[~~formed in~~]*** subsection (1) of this section.

(b) Upon unanimous decision by the committee that track conditions are safe for racing, withdrawals shall not be made.

(3)(a) An entrant may scratch a horse if:

1. A decision by the committee that the track is safe is not unanimous; and
2. The entrant has posted ten (10) percent of the purse for the race.

(b) A person shall not scratch a horse for a reason other than sickness, lameness, injury, or hazardous track conditions.

(c) If sufficient withdrawals are received to cause the field to be less than six (6), the association shall have the right to postpone an early closing event or stake and cancel an overnight event.

(4)(a) The money posted pursuant to subsection 3(a)2 of this section shall be forwarded to the commission.

(b) The commission shall determine whether a withdrawal was for sickness, lameness, injury, or hazardous track conditions.

(c) The money shall be:

1. Forfeited if the commission determines that the withdrawal was not for good cause; or

2. Refunded if the commission determines that the withdrawal was for good cause.

(5) This section applies only to the withdrawal of horses that have been properly declared in and does not apply to postponement as set forth in 810 KAR 5:070.

Section 28. Length of Race and Number of Heats.

(1) A race or dash shall be listed at a stated distance in units no shorter than one-sixteenth (1/16) of a mile.

(2) The length of the race and the number of heats shall be stated in the conditions.

(3) If a distance or number of heats is not specified, any race shall be a single mile dash**,** except at fairs and meetings of a duration of six (6) days or less where they shall be conducted in two (2) dashes at one (1) mile distances.

Section 29. Two (2) Year Olds. A two (2) year old shall not be permitted to:

(1) Start in a dash or heat exceeding one (1) mile in distance; or

(2) Race in more than two (2) heats or dashes per day.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:070. Running of the race.

RELATES TO: KRS ***13B,*** 230.215, 230.260(1), 230.280, 230.290(2), (3), 230.300, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.320(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.320(1) authorizes the commission to promulgate administrative regulations setting out the conditions under which licenses may be denied, revoked, or suspended. KRS 230.361(1) authorizes the commission to promulgate regulations concerning the pari-mutuel wagering system. This administrative regulation establishes track rules and requirements concerning proper racing conduct, the starting and timing of races, placing, money distribution, post time and postponements, and protests.

Section 1. Driving Violations. A leading horse shall be entitled to any part of the track. After selecting a position in the home stretch, a driver of a horse shall not:

(1) Change either to the right or left during any part of the race if another horse is so near the driver that in altering positions**:**

(a)[;] The driver compels the horse behind to shorten strides***;[;]*** or

(b) Causes the driver of any other horse to pull the horse out of his stride;

(2) Jostle, strike, hook wheels, or interfere with another horse or driver;

(3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers;

(4) Swerve in and out or pull up quickly;

(5) Crowd a horse or driver by "putting a wheel under him";

(6) "Carry a horse out" or "sit down in front of him", take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses, or do any other act that constitutes "helping";

(7) Allow a horse to pass inside needlessly or otherwise help another horse to improve its position in the race;

(8) Lay off a normal pace and leave a hole if it is well within the horse's capacity to keep the hole closed;

(9) Commit an act which impedes the progress of another horse or causes the horse to "break";

(10) Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in a manner which interferes with another horse or causes the horse to change course or take back;

(11) Drive in a careless or reckless manner or fail to maintain reasonable control of the horse at all times during the race;

(12) Whip under the arch of the sulky;

(13) Cross the inside limits of the course;

(14) Fail to set or maintain a pace comparable to the class being raced, including traveling an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race; or

(15) Kick a horse. Removal of a foot from the stirrups in and of itself shall not constitute the act of kicking.

Section 2. Leaving the Course.

(1) A horse or a horse's sulky that leaves the course by brushing, running over, or going inside of a pylon demarcation shall have violated this administrative regulation and may be penalized by a disqualification if in the opinion of the judges:

(a) The action results in the horse gaining an unfair advantage over other horses in the race;

(b) The action helps the horse improve its position in the race; or

(c) The driver goes inside the pylons and does not immediately correct position.

(2) A horse using the inside to pass shall have complete clearance of the pylons.

(3) A driver striking pylons but not gaining an unfair advantage shall be cited for a violation of this administrative regulation unless he was forced to strike the pylons by circumstances beyond his control.

(4) If an act of interference causes a horse or part of a horse's sulky to be in violation of this administrative regulation and the horse is disqualified, the offending horse shall be placed behind the horse with which it interfered.

Section 3. Penalties.

(1) A horse that violates Section 1 or 2 of this administrative regulation shall:

(a) Be placed back one (1) or more positions in the heat or dash behind the horse with which the horse interfered;

(b) Be disqualified from receiving any winnings, if a horse is prevented from finishing as a result of the violation; or

(c) Be placed last among finishing horses, if a horse which the violating horse interfered with fails to finish the race due to a separate and unrelated incident.

(2) If a violation set forth in Section 1 or 2 of this administrative regulation is committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back, if the judges determine that the violation may have affected the finish of the race. Otherwise, penalties shall be applied individually to the drivers of any entry.

Section 4. Complaints, Reports of Interference.

(1) Complaints.

(a) A complaint by a driver relating to driving or other misconduct during a heat shall be made at the termination of the heat, unless the driver is prevented from doing so by an accident or injury.

(b) A driver desiring to enter a claim of foul or other complaint of violation of the rules shall, before dismounting, indicate to the judges the driver's intention to enter a claim or complaint, and immediately upon dismounting, the driver shall proceed to the

telephone or judges' stand where the claim, objection, or complaint shall be immediately entered.

(c) The judges shall not cause the official sign to be displayed until the claim, objection, or complaint has been entered and considered.

(2) Report of interference. A driver shall report to the designated official any interference to himself or herself or to the driver's horse by another horse or driver during a race.

Section 5. Unsatisfactory Drive; Fraud.

(1) A heat in a race shall be fairly contested by each horse in the race**,** and each horse shall be driven to the finish.

(2) A horse shall not be driven:

(a) With design to prevent the horse from winning a heat or dash which the horse was evidently able to win;

(b) In an inconsistent manner with the intent to improperly manipulate the outcome of a race; or

(c) To perpetrate or to aid in a fraud.

(3) The judges shall substitute a competent and reliable driver at any time prior to the start of the heat or race if the judges have reason to doubt the competence or reliability of the original driver.

Section 6. Removal and Substitution of Driver. A driver may be removed and another driver substituted after the positions have been assigned in a race if, in the opinion of the judges, a driver:

(1) Is unfit or incompetent to drive;

(2) Refuses to comply with the directions of the judges; or

(3) Is reckless in his or her conduct and endangers the safety of horses or other drivers in the race.

Section 7. Failure to Finish. If, for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled "did not finish."

Section 8. Disruptive Conduct.

(1) A driver shall not engage in disruptive or distracting**,** improper conduct during a race.

(2) A driver may remove a foot from the stirrup temporarily for the purpose of pulling earplugs.

Section 9. Whipping.

(1) A driver may have a whip that does not exceed four (4) feet with a snapper not longer than six (6) inches.

(2) ***Except for the ordinary whip or crop,*** a person shall not use any goading device, chain or mechanical device, or appliance***[~~, other than the ordinary whip or crop,~~]*** upon a horse in any race, training exercise, or while on association grounds.

(3) (a) A whip or crop shall not be used in a brutal, excessive, or indiscriminate manner during a race, training exercise, or while on association grounds.

(b) A driver shall use a whip only in the conventional manner, by holding the handle and whipping the horse only above the shafts with wrist and elbow movement only. Full swings or going behind the head is prohibited.

(c) Welts, cuts, or whip marks on a horse resulting from whipping shall constitute a prima facie violation of this section.

(d) A driver shall not:

1. Whip a horse under the arch or shafts of the sulky;

2. Kick a horse;

3. Punch a horse;

4. Jab a horse;

5. Use the whip so as to interfere with or cause disturbance to any other horse or driver in a race;

6. Whip a horse after a race; or

7. Whip a horse that is exhausted or no longer in contention to win the race.

(4) A driver shall keep a line in each hand and both hands shall stay in front of the body of the driver from the start of the race until the finish of the race. The left line shall be held in the left hand and the right line shall be held in the right hand.

Section 10. Hopples.

(1) A horse shall not wear hopples in a race unless it has qualified in hopples.

(2) Having so started, the horse shall continue to wear them to the finish of the race.

(3) A person shall not remove or alter a horse's hopples during a race, or between races, for the purpose of fraud.

(4) A horse habitually wearing hopples shall not start in a race without them unless:

(a) The horse performs satisfactorily in a qualifying race; or

(b) The presiding judge excuses the horse from performing in a qualifying race.

(5) A horse habitually racing free-legged shall not wear hopples in a race unless:

(a) The horse performs satisfactorily in a qualifying race; or

(b) The presiding judge excuses the horse from performing in a qualifying race.

(6) A horse shall not wear a head pole protruding beyond its nose.

Section 11. Breaking.

(1) If a horse breaks from its gait in trotting or pacing, the driver shall at once, if clearance exists, take the horse to the outside and pull it to its gait.

(2) A driver shall not:

(a) Fail to properly attempt to pull the horse to its gait;

(b) Fail to take to the outside or inside if clearance exists;

(c) Fail to lose ground by the break; or

(d) Fail to prevent extended break.

(3) If there has been no failure on the part of the driver in complying with subsection (2) of this section, the horse shall not be set back unless a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish.

(4) A driver shall not allow a horse to break for the purpose of fraudulently losing a heat.

(5) If a horse or driver's actions cause another horse to be off-stride at the wire, the offending horse shall be placed behind the horse with whom it interfered after all other placements have been made.

(6) A horse making a break, which causes interference with other contesting horses, shall be placed behind all offended horses.

(7) The judges shall set a horse back one (1) or more places if this section is violated.

Section 12. Breaks. One (1) of the judges shall call out every break made, and the clerk shall at once note the break and its character in writing.

Section 13. Time Between Heats and Races. The time between separate heats of a single race shall be no less than forty (40) minutes. A heat shall not be called after sunset if the track is not lighted for night racing. The time between races shall not exceed thirty (30) minutes.

Section 14. Accidents.

(1) If any horse in the current program falls***.[~~or~~]*** runs uncontrollably on the track**,** or is involved in an accident after starting to warm up, that horse shall be permitted to start only after examination and approval by the commission veterinarian.

(2) If an accident occurs, the judges shall allow adequate time in between posts to clear the track. A driver involved in an accident shall be cleared by an emergency medical technician or paramedic before resuming driving engagements.

Section 15. Sulkies.

(1) A driver shall be seated in his sulky at the finish of the race or the horse shall be placed as not finishing.

(2) The owner and trainer shall provide every sulky used in a race with uncolored or colorless wheel discs on the inside and outside of the wheel of a type approved by the commission. If necessary, the presiding judge may order the use of mud guards to be provided by the owners or trainers.

(3) A sulky shall not be used in a race unless it meets the requirements of the rules and regulations of the United States

Trotting Association, 2018, Rule 18, Section 25, "Sulky Performance Standards".

Section 16. Helmets. A protective helmet, securely fastened under the chin and meeting the Snell Foundation 2000 Standard for Protective Headgear for Use in Harness Racing, shall be worn at all times on the premises of an association while:

(1) Racing, parading, or warming up a horse prior to racing; or

(2) Jogging, training, or exercising a horse at any time.

Section 17. Safety Vests.***[~~(1)~~]*** A safety vest shall be worn while racing, parading, or warming up a horse prior to racing.

Section 18. A licensee shall not:

(1) Refuse to comply with an order or ruling of a member or employee of the commission, a racing official, or judge***;[~~,~~]***

(2) Interfere with the performance of the duty of a person specified in subsection (1) of this section;

(3) Threaten, strike, or harass an owner, trainer, driver or attendant of a horse, or an employee of the association or commission;

(4) Sexually harass an owner, trainer, driver or attendant of a horse, or an employee of the association or commission; or

(5) Use force or intimidation against an owner, trainer, driver or attendant of a horse, or an employee of the association or commission.

Section 19.(1) A person or association shall not offer any money, benefit, or other inducement to any licensee, employee of the commission, or officer of a racing association to affect the entries to a race, the running of a race, or the outcome of a race.

(2) Any action prohibited by subsection (1) of this section shall be immediately reported to the judges who shall promptly inform the racing association and the commission.

Section 20.(1) An owner, trainer, agent, or driver of a horse shall not threaten or join with others in threatening not to race, or not to declare in, because of the entry of a certain horse or a particular stable, thereby compelling or attempting to compel the racing secretary to reject an eligible entry.

(2) An action prohibited by subsection (1) of this section shall be immediately reported to the commission.

Section 21. An owner, agent, or driver who has entered a horse shall not demand of the association a bonus of money or other special award or consideration as a condition for starting the horse.

Section 22. Wagering.

(1) A driver shall not place a wager, or cause a wager to be placed on his or her behalf, or accept a ticket or winnings from a wager on a race, except:

(a) A race on the horse he is driving; and

(b) Through the owner or trainer of the horse he is driving.

(2) An owner or trainer who places a wager for his driver shall:

(a) Maintain a complete record of the wager; and

(b) Make the record available for examination by the judges upon request.

Section 23. Duty to Report Fraudulent Proposal. A person shall immediately report to the presiding judge the details of an offer, promise, or request for a bribe or wager intended to affect the outcome of a race.

Section 24. Denerving. (1) A horse that has had a chemical, surgical, or thermal neurectomy at or above the fetlock shall not be permitted to race.

(2) A horse that has had a palmar or plantar digital neurectomy may be permitted to race if:

(a) The neurectomy has been reported by the trainer to the stewards; and

(b) The horse has been approved for racing by the commission veterinarian prior to being entered to race.

(3) A horse on which a neurectomy has been performed shall have that fact designated on its registration certificate, virtual certificate, racing permit, and entry in the electronic registration system. Responsibility for ensuring that the neurectomy is correctly noted on the horse's registration certificate, virtual certificate, racing permit, and entry in the electronic registration system shall fall:

(a) Jointly on the practicing veterinarian who performed the operation and the trainer of the denerved horse if the neurectomy was performed at a location under the commission's jurisdiction; and

(b) Solely on the owner of the denerved horse if the neurectomy was performed at a location not under the commission's jurisdiction.

(4) If a horse races in violation of this section and participates in the purse distribution, a protest shall not be considered unless submitted in writing to the stewards within forty-eight (48) hours after the race.

(5) If a horse races in violation of this section and is claimed, a protest shall not be considered unless the successful claimant submits a protest in writing within forty-eight (48) hours requesting that the claim be voided. If the claim is voided, the horse shall be returned to the owner who started the horse in the race, and the claim price shall be returned to the claimant.

(6) A list of all denerved horses shall be made publicly available.

Section 25. Spayed Mares. If a mare has been spayed:

(1) It shall be noted on the:

(a) Registration certificate;

(b) Electronic eligibility certificate; and

(c) Program when the mare races; and

(2) The owner shall:

(a) Notify the United States Trotting Association that the mare has been spayed; and

(b) Return the mare's papers to the United States Trotting Association for correction.

Section 26. Starting Gate.

(1) Starter's control. The starter shall have control of the horses from the formation of the parade until the word, "go", is given.

(2) Before or during the parade, the starter shall inform the drivers of the number of scores permitted. After one (1) or two (2) preliminary warming up scores, the starter shall notify the drivers to proceed to the starting gate.

(3) A horse shall not be brought to the starting gate nearer than one eighth (1/8) of a mile before the start, if the length of the stretch permits.

(4) On a mile track, a horse shall be brought to the starting gate at the head of the stretch.

(5) The starting point shall be a point on the inside rail a distance of at least 200 feet from the first turn. The starter shall give the word "go" at the starting point.

(6) When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

(7) If a recall is necessary, a light plainly visible to the driver shall be flashed and a recall sounded and, if possible, the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. The starter may close the wings of the gate if an emergency situation arises.

(8) There shall be no recall after the word "go" has been given and any horse, regardless of position or accident, shall be considered a starter from the time the horse enters into the starter's control, unless dismissed by the starter or judges pursuant to subsection (10) of this section.

(9) The starter shall endeavor to start all horses in position and on gait, but a recall shall not be sounded for a breaking horse.

(10) The starter may sound a recall only for the following reasons, if the starter believes the integrity of the race may be jeopardized:

(a) A horse scores ahead of the gate;

(b) There is interference;

(c) A horse has broken equipment;
(d) A horse falls before the word "go" is given;
(e) There is a malfunction of the starting gate;
(f) A horse comes to the gate out of position; or
(g) A circumstance arises which will not allow a fair start, as determined by the starter.
(11) A driver shall not:
(a) Delay the start;
(b) Fail to obey the starter's instructions;
(c) Rush ahead of the inside or outside wing of the gate;
(d) Come to the starting gate out of position;
(e) Cross over before reaching the starting point;
(f) Interfere with another driver during the start; or
(g) Fail to come up into position.
(12) Unless granted permission by the presiding judge, a person other than the starter, or the starter's driver or operator, shall not be allowed to ride in the starting gate.
(13) Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers shall be prohibited. The volume shall not be higher than necessary to carry the voice of the starter to the drivers.

Section 27. Holding Horses Before Start.
(1) A horse shall not be held on the backstretch for more than three (3) minutes awaiting post time, except if delayed by an emergency or by permission of the judges.
(2) Post time must be posted no later than two (2) minutes following a previous race with the exception of mutuel malfunction.
(3) Horses may not be held on the track more than ten (10) minutes unless permission is granted by the Presiding Judge.

Section 28. Two (2) Tiers.
(1) If there are two (2) tiers of horses, the withdrawal of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.
(2)(a) If a horse is drawn from any tier, horses on the outside shall fill the vacancy.
(b) If a horse has drawn a post position in the second tier, the driver of the horse may elect to score out behind any horse in the first tier, if the driver does not interfere with another trailing horse or deprive another trailing horse of a drawn position.

Section 29. Starters.
(1) A horse shall be considered to have started when the word, "go", is given by the starter, and a horse shall be required to complete the course except in case of accident, broken equipment, or other circumstance which, in the opinion of the judges, makes it impossible or unsafe to complete the course.
(2) For the purpose of declaring a horse a nonstarter, the judges shall consider the actual starting point on the track regardless if there was a start.

Section 30. Unmanageable Horse.
(1) If, in the opinion of the judges or the starter, a horse is unmanageable or may cause accidents or injury to another horse or to any driver, it shall be scratched. The starter shall notify the judges of the scratch, who shall then notify the public.
(2) A horse shall be considered unmanageable if it causes two (2) recalls in the same dash or heat, in which case it shall be scratched.

Section 31. Bad Acting Horse. At a meeting where there is no wagering, the starter may place a bad acting horse on the outside. At a pari-mutuel meeting, this action may be taken only if there is time for the starter to notify the judges, who shall in turn notify the public prior to the sale of tickets for the race. If tickets have been sold, the bad acting horse shall be scratched under the provisions of Section ***30[5]*** of this administrative regulation.

Section 32. Post Positions; Heat Racing. The horse winning a heat shall take the pole (or inside position) in the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed in the last heat. If two (2) or more horses finish ***in[~~is~~]*** a dead heat, their positions shall be settled by lot.

Section 33. Shield. The arms of a starting gate shall be provided with a screen or a shield in front of the position for each horse, and the arms shall be perpendicular to the rail.

Section 34. Unfair Advantage Prior to Start. If a horse comes to the gate out of its assigned post position and gains an unfair advantage by moving either to the left or right to its assigned post position before the starter gives the word, "go," that horse shall be disqualified and placed by the judges.

Section 35. Malfunction of the Gate. A licensed starter shall check the starting gate for malfunctions before commencing a meeting and shall practice the measures to be followed ***if there is[~~in the event of~~]*** a malfunction. Both the starter and the driver of the gate shall know and practice emergency measures, and the starter shall be responsible for the training of drivers in taking emergency measures.

Section 36. Timing Races. The time of a heat shall be taken by**:**
(1) One electronic timing device; and***[:]***
(2) One hand-held timing device.

Section 37. Track Measurement Certificate. An association shall file with the commission a certificate from a duly licensed civil engineer or land surveyor attesting that the track has been measured from wire to wire three (3) feet out from the pole or inside hub rail, and certifying in linear feet the result of the measurement. If there is a change or relocation of the hub rail, the track shall be measured and recertified.

Section 38. Time for Lapped on Break. The leading horse shall be timed and his time only shall be announced. A horse shall not obtain a win race record by reason of the disqualification of another horse unless the horse's actual race time can be determined by photo finish or electronic timing.

Section 39. Time for Dead Heat. In case of a dead heat, the time shall constitute a record for the horses making a dead heat and both shall be considered winners.

Section 40. Timing Procedure. The time shall be taken from the first horse leaving the point from which the distance of the race is measured until the winner reaches the wire.

Section 41. Time Performances.
(1) Time performances shall be permitted with the permission of the presiding judge subject to the following:
(2) A urine test or blood test or both shall be required for any horse with a winning time performance.
(3) A workout for the judges or time trial performance shall not be used to qualify a horse to race.

Section 42. Unless otherwise provided in the conditions, a purse shall be distributed on the dash basis with the money awarded according to a horse's position in each separate dash or heat of the race. Purse money distribution in overnight events shall be limited to the first five (5) finishers.

Section 43. Dashes.
(1) Except in the case of stakes or futurities as set forth in 810 KAR 5:040, Section 7, unless otherwise specified in the conditions, the money distribution in dashes shall be in the following percentages: fifty (50), twenty-five (25), twelve (12), eight (8), and five (5).
(2) In early closing races, late closing races, or added money events, if there are less than five (5) starters, the remaining purse shall go to the race winner unless the conditions call for a different distribution.

(3) In overnight events, if there are less than five (5) starters, the purse for the position for which there are no starters shall be retained by the association.

(4) If there is a purse for which horses have started but were unable to finish due to an accident, all non-offending horses that did not finish shall share equally in the premium or premiums.

(5) If there is a purse for which horses have started but were unable to finish and the situation is not covered by subsection (4) of this section, the purse shall be paid to the winner.

Section 44. If unfavorable weather or other unavoidable cause exists that necessitates postponement of a race, and the judges consent, an association shall postpone a race in the following manner:

(1) Early closing races, stakes, and futurities shall be postponed to a definite hour the next fair day and good track.

(2) A late closing race, early closing race, stake, or futurity (except as provided in subsections (4) and (5) of this section) that cannot be raced during the scheduled meeting shall be declared off**,** and the entrance money and forfeits shall be divided equally among the nominators who have horses declared in and eligible to start.

(3) A late closing race or early closing race that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary. A late closing race or early closing race that has been started but postponed by rain earlier in the meeting shall be declared ended and the full purse divided according to the summary**,** if there is sufficient time to conduct the race during the scheduled meeting.

(4) A stake or futurity shall be raced where advertised**,** and the race meeting, if necessary, shall be extended. A stake or futurity that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary, unless the association elects to extend the meeting to complete the race. A horse that is scratched after a heat and before a race is declared finished shall not participate in purse distribution from subsequent heats.

(5) Unless otherwise provided in the conditions of the race, unanimous consent shall be obtained from the association and from those with eligibles in the race before a stakes race or futurity may be transferred to another meeting.

(6) At a meeting of more than five (5) days duration, an overnight event may be postponed and carried over for a maximum of two (2) racing days.

(7) At a meeting of five (5) days duration or less, an overnight event or late closing race shall be cancelled and starting fees shall be returned if postponement occurs, unless the association adds the postponed race to the advertised program and the race is held within two (2) weeks of cancellation.

(8) A postponed race may, at the option of the association, be contested in a single mile dash. If a race is postponed under this administrative regulation, the association shall select the order in which the events shall be raced in any combined program.

Section 45. Post Time.

(1) If racing is conducted at night or twilight, the racing program shall be completed no later than 12:00 a.m., midnight.

(2) Post time for the first race of the evening shall be fixed by the association. A delay in the first post of not more than ten (10) minutes from the established post time may be taken without prior approval of the commission.

Section 46. Number of Races Per Program.

(1) If eight (8) races are programmed, four (4) completed races shall constitute a completed program.

(2) If nine (9) races are programmed, five (5) completed races shall constitute a completed program.

(3) If ten (10) or more races are programmed, six (6) completed races shall constitute a completed program.

Section 47. Postponements.

(1) Racing shall not be conducted by an association over a track that is dangerous to drivers or horses.

(2) If inclement weather or other conditions appear to make the track dangerous, the presiding judge, a representative of the association, and a representative of the Kentucky Harness Horseman's Association shall determine whether racing shall be conducted or postponed.

(3) If a difference of opinion exists between the representative of the association and the representative of the Kentucky Harness Horseman's Association as to whether racing shall be conducted or postponed, the decision of the presiding judge shall be final.

Section 48. Protests. Protests shall:

(1) Be made only by:

(a) An owner;

(b) A manager;

(c) A trainer; or

(d) A driver; and

(2) Shall be made at any time before distribution of the purse is made;

(3) Shall be made in writing;

(4) Shall be sworn to; and

(5) Shall contain at least one (1) specific charge questioning eligibility which, if true, would prevent the offending horse from competing in the race.

Section 49. The judges shall, in case of protest, demand that the driver and the owner or owners, if present, shall immediately testify under oath. If a person refuses to testify after being ordered to do so and the race has not yet started, that person's horse shall not be allowed to start or continue in the race, but shall be ruled out, and any entrance money shall be forfeited.

Section 50. Unless the judges find satisfactory evidence to warrant excluding the horse, they shall allow a horse to start or continue in the race under protest***. If the purse is won by that horse, it[, and the purse, if any is won by that horse,]*** shall be retained by the association on behalf of the commission to allow the interested parties to continue the protest proceeding, in accordance with Section ***53[52]*** of this administrative regulation.

Section 51. A person shall not knowingly, and with intent to influence the results of a race, protest a horse falsely and without cause.

Section 52. This administrative regulation shall not affect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, if the distribution is made upon the official placing at the conclusion of the heat or dash.

Section 53. (1) A protest shall be reviewed and appealed in accordance with the procedures set forth in 810 KAR 8:030 and KRS Chapter 13B.

(2) The purse money affected shall be deposited with the association pending the decision of the protest review or appeal.

Section 54. A judge shall not refuse to accept a protest.

Section 55. A person who has knowledge, prior to a race, of information that would prevent an ineligible horse from running in a race, and who fails to file a protest prior to the race with regard to that horse, shall have waived the right to protest after the race if the protest would have prevented the ineligible horse from running in the race.

Section 56. Material Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) Rules and Regulations of the United States Trotting Association, 2018, Rule 18, Section 25, "Sulky Performance Standards"; and

(b) The Snell Memorial Foundation's "2000 Standard for Protective Headgear for use in Harness Racing".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky

Horse Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Kentucky Horse Racing Commission Web site, http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 5:080. Harness racing at county fairs.

RELATES TO: KRS 230.215, 230.260, 230.280, 230.290, 230.310, 230.398
STATUTORY AUTHORITY: KRS 230.215, 230.260, 230.398
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.398 authorizes the commission to promulgate administrative regulations governing the conduct of county fair races. This administrative regulation establishes conditions, races, purses, and payments in races conducted at county fairs in which funds for purses are provided by the commission, and regulates eligibility for participation in harness racing at county fairs.

Section 1. Eligibility. A horse is eligible to participate in a two (2) or three (3) year old stakes race at a county fair if:
(1) The horse is a two (2) year old or a three (3) year old that is "Kentucky-bred" as defined in 810 KAR 7:040;
(2) All owners of the participating horse are current members of the Kentucky Colt Racing Association, Inc.;
(3) All owners of the participating horse hold a current license with the commission; and
(4) The trainer and driver of the participating horse hold current licenses with the commission.

Section 2. Track Requirements.
(1) A fair shall have a safe and adequate track, and the entire track, including start and finish lines, shall be visible to judges and spectators.
(2) The track shall be inspected and approved by a representative of the commission.
(3) A track shall have a hub rail or pylons approved by the commission.
(4) (a) A fair shall have safe and adequate stalls for participating horses.
(b) If permanent stalls are not available, tents or other tie-in type stalls may be used.
(c) Except as provided by paragraph (d) of this subsection, a county fair shall not charge stall rent for horses racing at the fair.
(d) A county fair may charge stall rent if the fair is held on state-owned property.

Section 3. Fair Fees.
(1) The Kentucky Colt Racing Association fees shall be as follows:
(a) A nomination fee of fifty (50) dollars per horse due on or before February 15 of each racing year;
(b) A sustaining fee of $200 per horse due on or before April 15 of each racing year;
(c) A starting fee of fifty (50) dollars per horse, per fair, due at the time of entry for the fair; and
(d) A twenty-five (25) dollar fee per horse for starting in an overnight race, due at the time of entry for the fair.
(2) A $200 payment shall be due at the time of entry for a horse eligible for the fair finals.

Section 4. Officials.
(1) The Kentucky Colt Racing Association shall submit to the commission, at least sixty (60) days prior to the opening of a race meeting, a written list of racing officials and applicable employees.
(2) At a county fair, there shall be at least one (1) presiding judge approved by the commission in the judges' stand. In addition, at a meeting in which races are charted, the association member shall provide both a licensed charter and licensed clerk of the course.
(3) A fair shall use licensed United States Trotting Association judges to preside over the racing.
(4) The judges shall review the ownership of any horse that is entered in order to ensure the horse's eligibility to race.
(5) The judges may determine the validity for racing purposes of any lease, transfer, or agreement pertaining to ownership of a horse and may call for adequate evidence of ownership at any time.
(6) The judges may declare a horse ineligible to race if the ownership or control of the horse is in question.
(7) Officials shall be paid by the Kentucky Colt Racing Association.

Section 5. Starter. A fair shall use a licensed starter with adequate equipment.

Section 6. Use of Entry Fees.
(1) The entry fees established in Section 3(1)(c) and (d) of this administrative regulation shall be retained by each fair as compensation for conducting its harness racing program and in reimbursement of the expenses incurred.
(2) A fair shall, upon request, make a full accounting of the entry fees to the commission.

Section 7. Application for a License and Approval for Purse Distributions.
(1) The Kentucky Colt Association on behalf of a fair shall apply to the commission for a license to conduct a harness racing event. A request for pari-mutuel wagering shall be included at the time of application.
(2) Distribution of revenue for the Kentucky County Fairs shall be reviewed annually, not later than December 15 of each calendar year, by the advisory panel established in 810 KAR 7:040.

Section 8. Changes in Racing Program. A fair shall have the right to change the order of its program and to postpone or cancel an event due to bad weather or unavoidable cause. If a race is canceled because of lack of entries, entry fees shall be refunded.

Section 9. Early Closers.
(1) An early closing event, and all divisions of that event, shall race a single heat at a distance of one (1) mile and shall be contested for a purse approved by the commission on an annual basis.
(2) An early closing race shall be contested regardless of the number of entries. However, a fair may cancel an overnight race with less than five (5) entries.

Section 10. Number of Starters and Purse Distributions. There shall be no more than two (2) trailers in any race at a county fair.
(1) On a one (1) mile track, there shall be ten (10) horses on the gate and the race shall split on eleven (11) horses.
(2) On a half mile track or five-eighths mile track, there shall be five (5) horses on the gate with two (2) trailers**,** and the race shall split on eight (8) horses.
(3) The purse for each race shall be divided as follows:
(a) Five (5) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and five (5) percent;
(b) Four (4) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and the remaining

five (5) percent reverts back to the fund;

(c) Three (3) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, and the remaining thirteen (13) percent reverts back to the fund;

(d) Two (2) starters - fifty (50) percent, twenty-five (25) percent, and the remaining twenty-five (25) percent reverts back to the fund; and

(e) One (1) starter - fifty (50) percent, and the remaining fifty (50) percent reverts back to the fund.

Section 11. Points Distribution.

(1) Points shall be awarded in an early closing race, and any division of an early closing race, as follows:

(a) First place finisher - fifty (50) points;

(b) Second place finisher - twenty-five (25) points;

(c) Third place finisher - twelve (12) points;

(d) Fourth place finisher - eight (8) points;

(e) Fifth place finisher - five (5) points; and

(f) Each starter that finishes out of the money - one (1) point.

(2) If two (2) horses dead-heat for any position, they shall each receive one-half (1/2) of the points awarded for that position and one-half (1/2) of the points awarded for the next lower position. The same procedure shall be used for the allocation of points if there is a dead-heat of three (3) or more horses.

(3) A horse that is declared in and then is the subject of a judge's scratch shall be awarded one (1) point based upon the decision of the presiding judge. This decision shall be final.

(4) If there is a tie among two (2) or more horses with the same number of points, the tie shall be resolved in favor of the horse with the higher earnings in the early closing fair events in which the horses have competed.

(5) If any division of a race is rained out before the completion of all other divisions of that race, the points for distribution set forth in this section shall not apply, and instead one (1) point shall be awarded to each horse entered in each division of that race that was rained out.

Section 12. Entry Limitation. A horse shall not be allowed to compete in more than one (1) race at any fair.

Section 13. Drug Testing.

(1) The winning horse at a fair race and any other horse or horses as selected by the judges may be subjected to a drug test as set forth in 810 KAR 8:010 and 810 KAR 8:060.

(2) A fair shall provide two (2) enclosed stalls and bedding to be used by the commission veterinarian for drug testing.

(3) The stalls required by subsection (2) of this section shall be located as close to the race track as possible.

(4) The stalls shall be positioned to allow the track announcer to be heard.

Section 14. Coggins Test. A current negative Coggins test shall be required for each horse racing at a fair.

Section 15. Drivers. A driver shall wear full colors, white pants, a safety vest ***as required by[~~that meets the standards set forth in~~]*** 810 KAR 5:070 Section ***17[~~21~~]***, and a safety helmet that meets the standards set forth in 810 KAR 5:070 Section ***16[~~21~~]***, if on the track less than one (1) hour before the start of a fair racing program.

Section 16. Trophies. A fair shall provide a trophy or blanket to the winner of a race. If a race is contested in heats or divisions, the trophy shall be presented to the winner of the fastest heat or division.

Section 17. Early Deadlines. The deadline for entries at a fair shall be set by the Kentucky Colt Racing Association at its annual October meeting preceding the racing year.

Section 18. Programs. A county fair track holding races for purses shall provide a printed program available to the public containing the following information***[~~for~~]***:

(1) ***For*** non pari-mutuel tracks:

(a) Horse's name and sex;

(b) Color and age of horse;

(c) Sire and dam of horse;

(d) Owner's name;

(e) Driver's name and colors;

(f) Trainer's name; and

(g) Summary of starts in purse races, earnings, and the best win time for the current and preceding year***, which[~~. A horse's best win time~~]*** may be earned in either a purse or nonpurse race; and

(2) ***For*** pari-mutuel tracks:

(a) All of the program information required by subsection (1) of this section;

(b) At least the last six (6) performance and accurate chart lines. An accurate chart line shall include:

1. Date of race;
2. Location of race;
3. Size of track if other than a one-half (1/2) mile track;
4. Symbol for free-legged pacers;
5. Track condition;
6. Type of race;
7. Distance;
8. The fractional times of the leading horse including race times;
9. Post position;
10. Position of the one-quarter (1/4) marker, the one-half (1/2) marker, and the three-quarters (3/4) marker;
11. Stretch with lengths behind leader;
12. Finish with lengths behind leader;
13. Individual time of the horse;
14. Closing dollar odds;
15. Name of the driver;
16. Names of the horses that placed first, second, and third by the judges; and
17. Standard symbols for breaks and park-outs, if applicable;

(c) Indicate drivers racing with a provisional license; and

(d) Indicate pacers that are racing without hobbles.

Section 19. Payments. Nomination and sustaining payments shall be made to the Kentucky Colt Racing Association. Entry fees shall be paid to the fair for which the entry is taken.

Section 20. Violations. A person or association that violates a provision of this administrative regulation shall be subject to the penalties set forth in 810 KAR 8:030, Section 10.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 6:020. Calculation of payouts and distribution of pools.

RELATES TO: KRS 230.210, 230.215, 230.260, 230.361, 230.3615, 230.990

STATUTORY AUTHORITY: KRS 230.215(2), 230.260, 230.361(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the Kentucky Horse Racing Commission the authority to regulate conditions under which horse racing and pari-mutuel wagering thereon shall be conducted in the Commonwealth. KRS 230.361(1) requires the commission to

promulgate administrative regulations governing wagering under the pari-mutuel system of wagering. This administrative regulation establishes the calculation of payouts and the distribution of pools for pari-mutuel wagering on live horse races.

Section 1. Definitions.

(1) "Betting interest" means a single horse, or more than one (1) horse joined as a mutuel entry or joined in a mutuel field, on which a single pari-mutuel wager may be placed.

(2) "Breakage" means the net pool minus payout.

(3) "Broken consolation price" means the profit per dollar, plus one (1) dollar, rounded down to the break point.

(4) "Carryover" means nondistributed pool monies that are retained and added to a corresponding pool in accordance with KAR Title 810.

(5) "Consolation payout" means a payout to individuals who do not correctly choose all of the selections in a multiple-pick wager, or a payout to individuals who wager on a horse in a multi-pick wager that is subsequently scratched.

(6) "Covered betting interest" means a betting interest or combination of betting interests that has been wagered upon.

(7) "Dead heat" means a finish of a race in which the noses of two (2) or more horses reach the finish line at the same time.

(8) "Gross pool" means the sum of all wagers less refunds.

(9) "Individual" means a natural person, at least eighteen (18) years of age, except does not include any corporation, partnership, limited liability company, trust, or estate.

(10) "Multi-commission pool" means a pari-mutuel pool where entities accepting wagers use different takeout rates.

(11) "Net pool" means the total amount wagered less refundable wagers and takeout.

(12) "Payout" means the amount of the net pool payable to an individual patron on his or her winning wager.

(13) "Performance" means a specified number of races on a given race day that constitutes a full card of racing.

(14) "Profit" means the net pool less the gross amount wagered if using the standard price calculation procedure and the net pool less the net amount wagered if using the net price calculation procedure.

(15) "Profit split" means to calculate a payout by splitting a pari-mutuel pool equally between each winning combination and dividing each portion by the number of winning tickets.

(16) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with KAR Title 810.

(17) "Single commission pool" means a pari-mutuel pool where all entities accepting wagers use the same takeout rate.

(18) "Single price pool" means a pari-mutuel pool in which the entire profit is paid to holders of winning tickets after the deduction of the takeout.

(19) "Takeout" means the total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by KRS 230.3615 and KAR Title 810.

(20) "Unbroken consolation price" means the profit per dollar plus one (1) dollar.

Section 2. General Requirements.

(1) All pari-mutuel pools shall be separately and independently calculated and distributed. The takeout shall be deducted from each gross pool as stipulated by KRS 230.3615. The remainder of the pool shall be the net pool for distribution as payoff on winning pari-mutuel wagers.

(2)(a) Single commission pari-mutuel pools may be calculated using either the standard price calculation procedure or the net price calculation procedure.

(b) Multi-commission pari-mutuel pools shall be calculated using the net price calculation procedure.

(3) The standard price calculation procedure shall be as follows:

(a) Single price pools - Win pool

Gross Pool	=	Sum of Wagers on all Betting Interests - Refunds
Takeout	=	Gross Pool x Percent Takeout
Net Pool	=	Gross Pool - Takeout
Profit	=	Net Pool - Gross Amount Bet on Winner
Profit Per Dollar	=	Profit / Gross Amount Bet on Winner
$1 Unbroken Price	=	Profit Per Dollar + $1
$1 Broken Price	=	$1 Unbroken Price Rounded Down to the Break Point
Total Payout	=	$1 Broken Price x Gross Amount Bet on Winner
Total Breakage	=	Net Pool - Total Payout

(b) Profit split - Place pool. Profit shall be net pool less gross amount bet on all place finishers. Finishers shall split profit 1/2 and 1/2 (place profit), then divide by gross amount bet on each place finisher for two (2) unique prices.

(c) Profit split - show pool. Profit shall be net pool less gross amount bet on all show finishers. Finishers shall split profit 1/3 and 1/3 and 1/3 (show profit), then divide by gross amount bet on each show finisher for three (3) unique prices.

(4) The net price calculation procedure shall be as follows:

(a) Single price pool - Win pool

Gross Pool	=	Sum of Wagers on all Betting Interests – Refunds
Takeout	=	Gross Pool x Percent Takeout for Each Source
Net Pool	=	Gross Pool - Takeout
Net Bet on Winner	=	Gross Amount Bet on Winner x (1 – Percent Takeout)
Total Net Pool	=	Sum of All Sources Net pools
Total Net Bet on Winner	=	Sum of All Sources Net Bet on Winner
Total Profit	=	Total Net Pool - Total Net Bet on Winner
Profit Per Dollar	=	Total Profit / Total Net Bet on Winner
$1 Unbroken Base Price	=	Profit Per Dollar + $1 for each source:
$1 unbroken price	=	$1 Unbroken Base Price x (1 - Percent Takeout)
$1 Broken Price	=	$1 Unbroken Price Rounded Down to the Break Point
Total Payout	=	$1 Broken Price x Gross Amount Bet on Winner
Total Breakage	=	Net Pool - Total Payout

(b) Profit split - Place pool. Total profit shall be the total net pool less the total net amount bet on all place finishers. Finishers shall split total profit 1/2 and 1/2 (place profit), then divide by total net amount bet on each place finisher for two (2) unique unbroken base prices.

(c) Profit split - Show pool. Total profit shall be the total net pool less the total net amount bet on all show finishers. Finishers shall split total profit 1/3 and 1/3 and 1/3 (show profit), then divide by total net amount bet on each show finisher for three (3) unique unbroken base prices.

(5) Each association shall disclose the following in its license application:

(a) Which price calculation method it will use for single commission pari-mutuel pools;

(b) The ticket denominations for each type of pari-mutuel wager;

(c) The procedures for refunds of pari-mutuel wagers;

(d) The takeout for each type of pari-mutuel wager;

(e) Which pari-mutuel wagers will include carryover and consolation pools and the percentages of the net pool assigned to each; and

(f) For each type of pari-mutuel wagering involving more than one (1) live horse race, the procedures to be used if a race is cancelled.

(6) The individual pools described in this administrative

regulation may be given alternative names by each association if prior approval is obtained from the commission.

(7) A mutuel entry or a mutuel field in any race shall be a single betting interest for the purpose of each of the wagers described in this administrative regulation and the corresponding pool calculations and payouts. If either horse in a mutuel entry, or any horse in a mutuel field, is a starter in a race, the entry or the field selection shall remain as the designated selection for any of the wagers described in this administrative regulation and the selection shall not be deemed scratched.

Section 3. Pools Dependent Upon Entries for Live Horse Races.

(1) Except as provided in subsection (3) of this section, when pools are opened for wagering all associations may:

(a) Offer win wagering on all races with four (4) or more betting interests;

(b) Offer place wagering on all races with five (5) or more betting interests;***[and]***

(c) Offer show wagering on all races with six (6) or more betting interests.

(d) Offer Quinella wagering on all races with four (4) or more betting interests;

(e) Offer Exacta wagering on all races with four (4) or more betting interests;

(f) Offer Trifecta wagering on all races with five (5) or more betting interests;

(g) Offer Superfecta wagering on all races with six (6) or more betting interests;

(h) Offer Big Q wagering on all races with three (3) or more betting interests; and

(i) Offer Super High 5 wagering on all races with seven (7) or more betting interests.

(2) Except as provided in subsection (4) of this section, when pools are opened for wagering, associations shall not offer Twin Trifecta wagering on any races with six (6) or fewer betting interests.

(3) The chief state steward or presiding judge, or his or her designee, may authorize an association to offer a subject wager with less than the number of horses required by this section if:

(a) Requested by the association; and

(b) The integrity of the wager would not be affected by the smaller field.

(4) If a horse is scratched by the judges or stewards after wagering has commenced or a horse is prevented from running in a live horse race because of a failure of the starting gate, and the number of actual starters representing different betting interests is reduced below the requirements in ***subsection (1) or (2)[Subsection 1 or Subsection 2]*** of this section, the association may cancel the affected wagers and refund the entire affected pools with the approval of the Chief State Steward or Presiding Judge, or his or her designee.

(5) In all cases in which the Chief State Steward or Presiding Judge, or his or her designee, authorizes the changes described in ***subsection (4) or (5)[Subsection 4 or Subsection 5]*** of this section, the association shall provide a written report to the commission within twenty-four (24) hours of the post time of the race explaining the need to cancel the wagering pool.

Section 4. Win Pools.

(1) The amount wagered on the betting interest which finishes first shall be deducted from the net win pool and the balance remaining shall be the profit. The profit shall be divided by the amount wagered on the betting interest finishing first and the result shall be the profit per dollar wagered to win on that betting interest.

(2) The net win pool shall be distributed as a single price pool in the following precedence based upon the official order of finish:

(a) To individuals whose selection finishes first, except if there are not any of those wagers, then;

(b) To individuals whose selection finishes second, except if there are not any of those wagers, then;

(c) To individuals whose selection finishes third, ***except[but]*** if there are ***not any of those[no such]*** wagers, then;

(d) The entire pool shall be refunded on win wagers for that race.

(3)(a) If there is a dead heat for first involving horses representing the same betting interest, the win pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for first involving horses representing two (2) or more betting interests, the win pool shall be distributed as a profit split.

Section 5. Place Pools.

(1) The amounts wagered to place on the first two (2) betting interests to finish shall be deducted from the net pool and the balance remaining shall be the profit. The profit shall be divided into two (2) equal portions, with each portion assigned to each winning betting interest and divided by the dollar amount wagered to place on that betting interest. The result shall be the profit per dollar wagered to place on that betting interest.

(2) The net place pool shall be distributed in the following precedence based upon the official order of finish:

(a) If horses in a mutuel entry or mutuel field finish in the first two (2) places, as a single price pool to individuals who selected the mutuel entry or mutuel field, otherwise;

(b) As a profit split to individuals whose selection is included within the first two (2) finishers, except if there are not any of those wagers on one (1) of those two (2) finishers, then;

(c) As a single price pool to individuals who selected the one (1) covered betting interest included within the first two (2) finishers, except if there are not any of those wagers, then;

(d) As a single price pool to individuals who selected the third-place finisher, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on place wagers for that race.

(3)(a) If there is a dead heat for first involving horses representing the same betting interest, the place pool shall be distributed as a single price pool.

(b) If there is a dead heat for first involving horses representing two (2) or more betting interests, the place pool shall be distributed as a profit split.

(4)(a) If there is a dead heat for second involving horses representing the same betting interest, the place pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for second involving horses representing two (2) or more betting interests, the place pool shall be divided, with one-half (1/2) of the profit distributed to place wagers on the betting interest finishing first and the remainder of the profit distributed equally among place wagers on the betting interests involved in the dead heat for second.

Section 6. Show Pools.

(1) The amounts wagered to show on the first three (3) betting interests shall be deducted from the net pool and the balance remaining shall be the profit. The profit shall be divided into three (3) equal portions, with each portion assigned to each winning betting interest and divided by the amount wagered to show on that betting interest. The result shall be the profit per dollar wagered to show on that betting interest.

(2) The net show pool shall be distributed in the following precedence based on the official order of finish:

(a) If horses in a mutuel entry or mutuel field finish in the first three (3) places, as a single price pool to individuals who selected the mutuel entry or mutuel field, otherwise;

(b) If horses of a mutuel entry or mutuel field finish as two (2) of the first three (3) finishers, the profit shall be divided with two-thirds (2/3) distributed to individuals who selected the mutuel entry or mutuel field and one-third (1/3) distributed to individuals who selected the other betting interest included within the first three (3) finishers, otherwise;

(c) As a profit split to individuals whose selection shall be included within the first three (3) finishers, except if there are not any of those wagers on one (1) of those three (3) finishers, then;

(d) As a profit split to individuals who selected one (1) of the two (2) covered betting interests included within the first three (3) finishers, except if there are not any of those wagers on two (2) of

those three (3) finishers, then;

(e) As a single price pool to individuals who selected the one (1) covered betting interest included within the first three (3) finishers, except if there are not any of those wagers, then;

(f) As a single price pool to individuals who selected the fourth-place finisher, except if there are not any of those wagers, then;

(g) The entire pool shall be refunded on show wagers for that race.

(3)(a) If there is a dead heat for first involving two (2) horses representing the same betting interest, the profit shall be divided with two-thirds (2/3) to individuals who selected the first-place finishers and one-third (1/3) distributed to individuals who selected the betting interest finishing third.

(b) If there is a dead heat for first involving three (3) horses representing a single betting interest, the show pool shall be distributed as a single price pool.

(c) If there is a dead heat for first involving horses representing two (2) or more betting interests, the show pool shall be distributed as a profit split.

(4)(a) If there is a dead heat for second involving horses representing the same betting interest, the profit shall be divided with one-third (1/3) distributed to individuals who selected the betting interest finishing first and two-thirds (2/3) distributed to individuals who selected the second-place finishers.

(b) If there is a dead heat for second involving horses representing two (2) betting interests, the show pool shall be distributed as a profit split.

(c) If there is a dead heat for second involving horses representing three (3) betting interests, the show pool shall be divided with one-third (1/3) of the profit distributed to show wagers on the betting interest finishing first and the remainder shall be distributed equally among show wagers on those betting interests involved in the dead heat for second.

(5)(a) If there is a dead heat for third involving horses representing the same betting interest, the show pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for third involving horses representing two (2) or more betting interests, the show pool shall be divided with two-thirds (2/3) of the profit distributed to show wagers on the betting interests finishing first and second and the remainder shall be distributed equally among show wagers on those betting interests involved in the dead heat for third.

Section 7. Exacta Pools.

(1) The Exacta shall require the selection of the first two (2) finishers, in their exact order, for a single race.

(2) The net Exacta pool shall be distributed in the following precedence based upon the official order of finish:

(a) If horses of a mutuel entry or mutuel field finish as the first two (2) finishers, as a single price pool to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise;

(b) As a single price pool to individuals whose combination finished in the correct sequence as the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination included the betting interest that finishes first, except if there are not any of those wagers, then;

(d) As a single price pool to individuals whose combination included the betting interest that finished second, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Exacta wagers for that race.

(3)(a) If there is a dead heat for first involving horses representing the same betting interest, the Exacta pool shall be distributed as a single price pool to individuals who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) If there is a dead heat for first involving horses representing two (2) or more betting interests, the Exacta pool shall be distributed as a profit split.

(4) If there is a dead heat for second involving horses representing the same betting interest, the Exacta shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving horses representing two (2) or more betting interests, the Exacta pool shall be distributed to ticket holders in the following precedence based upon the official order of finish:

(a) As a profit split to individuals combining the first-place betting interest with any of the betting interests involved in the dead heat for second, except if there is only one (1) covered combination, then;

(b) As a single price pool to individuals combining the first-place betting interest with the one (1) covered betting interest involved in the dead heat for second, except if there are not any of those wagers, then;

(c) As a profit split to individuals whose wagers correctly selected the winner for first-place and any of the betting interests which finished in a dead-heat for second-place, except if there are not any of those wagers, then;

(d) The entire pool shall be refunded on Exacta wagers for that race.

Section 8. Quinella Pools.

(1) The Quinella shall require the selection of the first two (2) finishers, irrespective of order, for a single race.

(2) The net Quinella pool shall be distributed in the following precedence based upon the official order of finish:

(a) If horses of a mutuel entry or mutuel field finish as the first two (2) finishers, as a single price pool to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise;

(b) As a single price pool to individuals whose combination finished as the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a profit split to individuals whose combination included either the first- or second-place finisher, except if there are not any of those wagers on one (1) of those two (2) finishers, then;

(d) As a single price pool to individuals whose combination included the one (1) covered betting interest included within the first two (2) finishers, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Quinella wagers for that race.

(2)(a) If there is a dead heat for first involving horses representing the same betting interest, the Quinella pool shall be distributed to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) If there is a dead heat for first involving horses representing two (2) betting interests, the Quinella pool shall be distributed as if no dead heat occurred.

(c) If there is a dead heat for first involving horses representing three (3) or more betting interests, the Quinella pool shall be distributed as a profit split.

(3) If there is a dead heat for second involving horses representing the same betting interest, the Quinella pool shall be distributed as if no dead heat occurred.

(4) If there is a dead heat for second involving horses representing two (2) or more betting interests, the Quinella pool shall be distributed to individuals in the following precedence based upon the official order of finish:

(a) As a profit split to individuals combining the winner with any of the betting interests involved in the dead heat for second, except if there is only one (1) covered combination, then;

(b) As a single price pool to individuals combining the winner with the one (1) covered betting interest involved in the dead heat for second, except if there are not any of those wagers, then;

(c) As a profit split to individuals combining the betting interests involved in the dead heat for second, except if there are not any of those wagers, then;

(d) As a profit split to individuals whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Quinella wagers for

that race.

Section 9. Trifecta Pools.

(1) The Trifecta ***shall require[~~requires~~]*** selection of the first three (3) finishers, in their exact order, for a single race.

(2) For Trifecta price calculations only, the highest placed finisher of any part of a mutuel entry or mutuel field shall be used, eliminating all other parts of that mutuel entry or mutuel field from consideration regardless of finishing order.

(3) The Trifecta pool shall be distributed in the following precedence based upon the official order of finish:

(a) As a single price pool to individuals whose combination finished in correct sequence as the first three (3) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(d) The entire pool shall be refunded on Trifecta wagers for that race.

(4)(a) If less than three (3) betting interests finish and the race is declared official, payouts shall be made based upon the order of finish of those betting interests that finish the race.

(b) The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(5)(a) If there is a dead heat for first involving horses representing three (3) or more betting interests, all of the wagering combinations selecting three (3) betting interests that correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) If there is a dead heat for first involving horses representing two (2) betting interests, both of the wagering combinations selecting the two (2) betting interests that finish in a dead heat, irrespective of order, along with the third-place betting interest shall share in a profit split.

(6) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(7) If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

(8)(a) Trifecta wagering shall not be conducted on any race having fewer than five (5) separate betting interests.

(b) If fewer than five (5) horses start due to a late scratch or malfunction of the starting gate, the Trifecta shall be cancelled and the gross pool shall be refunded.

Section 10. Superfecta Pools.

(1) The Superfecta shall require selection of the first four (4) finishers, in their exact order, for a single race.

(2) The net Superfecta pool shall be distributed in the following precedence based upon the official order of finish:

(a) As a single price pool to individuals whose combination finished in correct sequence as the first four (4) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included in correct sequence, the first three (3) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(d) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Superfecta wagers for that race.

(3)(a) If less than four (4) betting interests finish and the race is declared official, payouts shall be made based upon the order of finish of those betting interests completing the race.

(b) The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4)(a) If there is a dead heat for first involving horses representing four (4) or more betting interests, all of the wagering combinations selecting betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) If there is a dead heat for first involving horses representing three (3) betting interests, all of the wagering combinations selecting the three (3) betting interests that finish in a dead heat, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

(c) If there is a dead heat for first involving horses representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.

(5)(a) If there is a dead heat for second involving horses representing three (3) or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three (3) betting interests involved in the dead heat for second shall share in a profit split.

(b) If there is a dead heat for second involving horses representing two (2) betting interests, all of the wagering combinations correctly selecting the winner, the two (2) dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any two (2) of the betting interests involved in the dead heat for third shall share in a profit split.

(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three (3) finishers, in correct sequence, along with any interest involved in the dead heat for fourth, shall share in a profit split.

(8) Superfecta wagering shall not be conducted on any race having fewer than six (6) separate betting interests. If fewer than six (6) horses start due to a late scratch or malfunction of the starting gate, Superfecta wagering shall be cancelled and the gross pool shall be refunded.

Section 11. Super High-Five Pools.

(1) The Super High-Five shall require selection of the first five (5) finishers, in their exact order, for a single race.

(2) Unless otherwise stated, the net Super High-Five pool shall be distributed as a single-priced pool to those who have selected all five (5) finishers, in exact order, based upon the official order of finish.

(3)(a) Each association shall disclose in its license application whether it intends to schedule Super High-Five wagering and, if so, shall disclose:

1. The percentage of the pool to be retained for the winning wagers; and

2. The designated amount of any cap to be set on the pool to be retained for the winning wagers.

(b) Any subsequent changes to the Super High-Five scheduling shall require prior approval from the commission or its designee.

(4) If there are no winning wagers selecting all five (5) finishers, in exact order, the entire Super High-Five pool shall be added to the carryover.

(5) If due to a late scratch the number of betting interests in the Super High-Five pool is reduced to fewer than seven (7), the Super High-Five pool shall be cancelled and shall be refunded, except not the Super High-Five carryover pool.

(6) If a betting interest in the Super High-Five pool is scratched from the race, there shall not be any more wagers accepted selecting that scratched runner and all tickets previously sold designating that horse shall be refunded and that money shall be deducted from the gross pool.

(7) If any dead-heat occurs in any finishing position, all wagers selecting either of the runners finishing in a dead heat with the correct runners not finishing in a dead heat shall be winners and

share the Super High-Five pool. Payouts shall be calculated by splitting the pool equally between each winning combination, then dividing each portion by the number of winning tickets.

(8)(a) On the final day of a meeting, an association shall make a final distribution of all accumulated carryovers along with the net pool of the Super High-Five pool conducted on the final day of the meeting as a single price pool to:

1. Individuals with tickets selecting the first five (5) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

2. Individuals with tickets selecting the first four (4) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

3. Individuals with tickets selecting the first three (3) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

4. Individuals with tickets selecting the first two (2) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

5. Individuals with tickets selecting the winner for the designated race, or, if there are not any of those wagers;

6. All money wagered into the Super High-Five pool that day shall be refunded and any carryover shall be retained and added to the Super High –Five pool on the first racing day of the next meeting.

(9) If, for any reason, the Super High-Five carryover shall be held over to the corresponding Super High-Five pool of a subsequent meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The Super High-Five carryover plus accrued interest shall then be added to the net Super High-Five pool of the following meeting on a date and performance approved by the commission.

Section 12. Double Pools.

(1) The double shall require the selection of the first-place finisher in each of two (2) specified races.

(2) The net double pool shall be distributed in the following precedence based upon the official order of finish:

(a) As a single price pool to individuals whose selections finished first in each of the two (2) races, except if there are not any of those wagers, then;

(b) As a profit split to individuals who selected the first-place finisher in either of the two (2) races, except if there are not any of those wagers, then;

(c) As a single price pool to individuals who selected the one (1) covered betting interest that finished first in either race, except if there are not any of those wagers, then;

(d) As a single price pool to individuals whose selection finished second in each of the two (2) races, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on the double wagers for those races.

(3)(a) If there is a dead heat for first in either of the races involving horses representing the same betting interest, the double pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for first in either of the races involving horses representing two (2) or more betting interests, the double pool shall be distributed as a profit split if there is more than one (1) covered winning combination.

(4) If a betting interest in the first half of the double is scratched prior to the close of wagering on the first double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.

(5) If a betting interest in the second half of the double is scratched prior to the close of wagering on the first double race, all money wagered on the combinations including the scratched betting interest shall be deducted from the double pool and refunded.

(6) If a betting interest in the second half of the double is scratched after the close of wagering on the first double race, all wagers combining the winner of the first race with the scratched betting interest in the second race shall be allocated a consolation payout.

(a) In calculating the consolation payout, the net double pool shall be divided by the total amount wagered on the winner of the first race and an unbroken consolation price obtained.

(b) The broken consolation price shall be multiplied by the dollar value of wagers on the winner of the first race combined with the scratched betting interest to obtain the consolation payout.

(c) Breakage shall not be included in this calculation.

(d) The consolation payout shall be deducted from the net double pool before calculation and distribution of the winning double payout.

(e) Dead heats including separate betting interests in the first race shall result in a consolation payout calculated as a profit split.

(7) If either of the double races is cancelled prior to the first double race, or the first double race is declared "no contest," the entire double pool shall be refunded on double wagers for those races.

(8)(a) If the second double race is cancelled or declared a "no contest" after the conclusion of the first double race, the net double pool shall be distributed as a single price pool to individuals who selected the winner of the first double race.

(b) If there is a dead heat involving separate betting interests, the net double pool shall be distributed as a profit split.

Section 13. Big Q Pools.

(1) The Big Q shall require selection of the first two (2) finishers, irrespective of order, in each of two (2) designated races.

(a) Each winning ticket for the first Big Q race shall be exchanged for a free ticket on the second Big Q race in order to remain eligible for the second half Big Q pool.

(b) Exchange tickets shall be exchanged at attended ticket windows prior to the second race comprising the Big Q.

(c) There shall not be a monetary reward for winning the first Big Q race.

(d) Each of the designated Big Q races shall be included in only one (1) Big Q pool.

(2) In the first Big Q race only, winning wagers shall be determined using the following precedence based on the official order of finish for the first Big Q race:

(a) If a mutuel entry or mutuel field finishes as the first two (2) finishers, those who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners, otherwise:

(b) Individuals whose combination finished as the first two (2) betting interests shall be winners, except if there are not any of those wagers, then;

(c) Individuals whose combination included either the first- or second-place finisher shall be winners, except if there are not any of those wagers on one (1) of the two (2) finishers, then;

(d) Individuals whose combination included the one (1) covered betting interest included within the first two (2) finishers shall be winners, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Big Q wagers for that race.

(3)(a) In the first Big Q race only, if there is a dead heat for first involving horses representing the same betting interest, individuals who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners.

(b) In the first Big Q race only, if there is a dead heat for first involving horses representing two (2) betting interests, the winning Big Q wagers shall be determined as if no dead heat occurred.

(c) In the first Big Q race only, if there is a dead heat for first involving horses representing three (3) or more betting interests, individuals whose combination included any two (2) of the betting interests finishing in the dead heat shall be winners.

(4) In the first Big Q race only, if there is a dead heat for second, the winners shall be those who combined the first place finisher with any of the runners involved in the dead heat for second.

(5) In the second Big Q race only, the entire net Big Q pool shall be distributed to individuals in the following precedence based upon the official order of finish for the second Big Q race:

(a) If a mutuel entry or mutuel field finishes as the first two (2)

finishers, as a single price pool to individuals who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise;

(b) As a single price pool to individuals whose combination finished as the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a profit split to individuals whose combination included either the first- or second-place finisher, except if there are not any of those wagers on one (1) of those two (2) finishers, then;

(d) As a single price pool to individuals whose combination included one (1) of the covered betting interests included within the first two (2) finishers, except if there are not any of those wagers, then;

(e) As a single price pool to all exchange ticket holders for that race, except if there are not any of those wagers, then;

(f) In accordance with subsection (2) of this section.

(6) (a) In the second Big Q race only, if there is a dead heat for first involving horses representing the same betting interest, the net Big Q pool shall be distributed to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) In the second Big Q race only, if there is a dead heat for first involving horses representing two (2) betting interests, the net Big Q pool shall be distributed as if no dead heat occurred.

(c) In the second Big Q race only, if there is a dead heat for first involving horses representing three (3) or more betting interests, the net Big Q pool shall be distributed as a profit split to individuals whose combination included any two (2) of the betting interests finishing in the dead heat.

(7) In the second Big Q race only, if there is a dead heat for second involving horses representing two (2) or more betting interests, the Big Q pool shall be distributed to individuals in the following precedence based upon the official order of finish:

(a) As a profit split to individuals combining the winner with any of the betting interests involved in the dead heat for second, except if there is only one (1) covered combination, then;

(b) As a single price pool to individuals combining the winner with the one (1) covered betting interest involved in the dead heat for second, except if there are not any of those wagers, then;

(c) As a profit split to individuals combining the betting interests involved in the dead heat for second, except if there are not any of those wagers, then;

(d) As a profit split to individuals whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, then;

(e) As a single price pool to all exchange ticket holders for that race, except if there are not any of those tickets, then;

(f) In accordance with subsection (2) of this section.

(8) If a winning ticket for the first half of the Big Q is not presented for exchange prior to the close of betting on the second half Big Q race, the ticket holder shall forfeit all rights to any distribution of the Big Q pool resulting from the outcome of the second race.

(9) If a betting interest in the first half of the Big Q is scratched, the Big Q wagers including the scratched betting interest shall be refunded.

(10) (a) If a betting interest in the second half of the Big Q is scratched, an immediate public announcement and immediate posting on the association's video monitors and website concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(b) If tickets have not been exchanged prior to the close of betting for the second Big Q race, the ticket holder shall forfeit all rights to the Big Q pool.

(11) If either of the Big Q races is cancelled prior to the first Big Q race, or the first Big Q race is declared "no contest," the entire Big Q pool shall be refunded on Big Q wagers for that race.

(12) If the second Big Q race is cancelled or declared "no contest" after the conclusion of the first Big Q race, the net Big Q pool shall be distributed as a single price pool to wagers selecting the winning combination in the first Big Q race and all valid exchange tickets. If there are not any of those wagers, the net Big Q pool shall be distributed as described in subsection (2) of this section.

Section 14. Pick-(n) Pools.

(1) The Pick-(n) ***shall require[~~requires~~]*** the selection of the first place finisher in each of (n)-specified races designated by the association and approved by the commission where (n) is any number of races greater than 2. Any changes to the Pick-(n) format shall be approved by the commission before implementation.

(2) The Pick-(n) pari-mutuel pool consists of amounts contributed for a win only selection in each of (n) races designated by the association. Each individual placing a Pick-(n) wager shall designate the winning horse in each of (n) races comprising the Pick-(n).

(3) The net Pick-(n) pool shall be apportioned in one the following methods based upon the official order of finish:

(a) Method 1, Pick-(n) with Carryover: The net Pick-(n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. If there are ***not any of those[~~no such~~]*** wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests; and the remainder shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(b) Method 2, Pick-(n) with 100 percent Carryover: The net Pick-(n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. If there are ***not any of those[~~no such~~]*** wagers, then 100 percent of that day's net pool shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(c) Method 3, Pick-(n) with Minor Pool and Carryover: The major share of the net Pick-(n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. The minor share of the net Pick-(n) pool shall be distributed to those who selected the first place finisher in the second greatest number of Pick-(n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick-(n) contests, the minor share of the net Pick-(n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests; and the major share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one (1) of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(d) Method 4, Pick-(n) with No Minor Pool and No Carryover: The net Pick-(n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests, based upon the official order of finish. If there are no winning wagers, the pool ***shall be[~~is~~]*** refunded.

(e) Method 5, Pick-(n) with Minor Pool and No Carryover: The major share of the net Pick-(n) pool shall be distributed to those who selected the first place finisher in the greatest number of Pick-(n) contests, based upon the official order of finish. The minor share of the net Pick-(n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick-(n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick-(n) contests, the minor share of the net Pick-(n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the

greatest number of Pick-(n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares ***shall be[~~are~~]*** combined for distribution as a single price pool. If there are no winning wagers, the pool ***shall be[~~is~~]*** refunded.

(f) Method 6, Pick-(n) with Minor Pool and No Carryover: The major share of net Pick-(n) pool shall be distributed to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. The minor share of the net Pick-(n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick-(n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick-(n) contests, the entire net Pick-(n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick-(n) contests, the minor share of the net Pick-(n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests. If there are no winning wagers, the pool ***shall be[~~is~~]*** refunded.

(g) Method 7, Pick-(n) with Carryover and "Unique Winning Ticket" Provision: The net Pick-(n) pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. If there are multiple tickets selecting the first-place finisher in each of the Pick-(n) contest(s), a share that has been declared by the Association and approved by the commission, of the net Pick-(n) shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests and the remaining share shall be added to the carryover. If there are no tickets selecting the first-place finisher in each of the Pick-(n) contests, then; the entire net Pick-(n) pool shall be added to the carryover. Associations may suspend previously approved unique winning ticket wagering with the prior approval of the commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated. Where there is no correct selection of the first-place finisher in at least one (1) of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick-(n) pool under this subsection, associations ***shall[~~must~~]*** clearly identify which definition under ***subsection (16)(b) of this section[~~paragraph 16(b)~~]*** will be relied upon for determining the existence of a unique winning ticket.

(4) If there is a dead heat for first place in any of the Pick-(n) races involving contestants representing the same betting interest, the Pick-(n) pool shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for first place in any of the Pick-(n) races involving contestants representing two (2) or more betting interests, the Pick-(n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(6) If a betting interest is scratched or is designated to run for purse money only from any leg of the Pick-(n), the association shall use the actual favorite, as evidenced by total amounts wagered in the Win pool at the host association, for the contest at the close of wagering on that contest, and shall be substituted for the betting interest that was scratched or designated to run for purse money only for all purposes, including pool calculations. ***If[~~In the event that~~]*** the Win pool total for two (2) or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(7) If for any reason more than half of the races comprising the Pick-(n) are cancelled or declared a "no contest", and there was no previous carryover amount, wagering on the Pick-(n) shall be cancelled and all wagers shall be refunded.

(8) If for any reason more than half of the races comprising the Pick-(n) are cancelled or declared a "no contest", and a previous carryover amount existed, the carryover amount shall be frozen and added to the next scheduled Pick-(n) event. Wagering on the Pick-(n) for the cancelled Pick-(n) wager races shall be cancelled and all wagers shall be refunded.

(9) If the condition of the turf course warrants a change of racing surface in any races of the Pick-(n), and the change has not been disclosed to the public prior to "off time" of the first race of the Pick-(n), the stewards shall declare the changed races an "all win" race for Pick-(n) wagering purposes only. An "all win" race shall assign the winner of that race to each Pick-(n) ticket holder as their selection for that race.

(10) The Pick-(n) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the Pick-(n) carryover equals or exceeds the designated cap, the Pick-(n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick-(n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Pick-(n) carryover, shall be distributed to those whose selection finished first in the greatest number of Pick-(n) contests for that performance.

(11) A written request for permission to distribute the Pick-(n) carryover on a specific performance may be submitted to the commission. The request ***shall[~~must~~]*** be for a specified date no greater than one (1) year from the date the request is submitted and contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(12) ***If[~~Should~~]*** the Pick-(n) carryover ***is[~~be~~]*** designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick-(n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick-(n) contests. The Pick-(n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection ***(11)[~~(8)~~]*** of this ***section[~~rule~~]***.

(b) Upon written approval from the commission when there is a change in the carryover cap, a change from one (1) type of Pick-(n) wagering to another, or when the Pick-(n) is discontinued***; or[~~.~~]***

(c) On the closing performance of the meet or split meet.

(13) Notwithstanding subsections (10) and (12) ***of this section***, if for any reason the Pick-(n) carryover must be held over to the corresponding Pick-(n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The Pick-(n) carryover plus accrued interest shall then be added to the net Pick-(n) pool of the following meet on a date and performance designated by the association and approved by the commission.

(14) With the written approval of the commission, the association may contribute to the Pick-(n) carryover a sum of money up to the amount of any designated cap.

(15) The association may suspend previously-approved Pick-(n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended Pick-(n) wagering is reinstated. An association may request approval of a Pick-(n) wager or separate wagering pool for specific performances.

(16) As it relates to any distribution method under ***subsection (3)(g) of this*** section***[~~(2)~~]*** which contains a unique winning ticket provision:

(a) A written request for permission to distribute the Pick-(n) unique winning ticket carryover on a specific performance may be submitted to the commission. The request ***shall[~~must~~]*** contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. ***If[~~Should~~]*** the Pick-(n) unique winning ticket net pool and any applicable carryover ***is[~~be~~]*** designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests.

(b) Associations ***shall[~~must~~]*** clearly identify which selection under ***subparagraphs 1 and 2 of this paragraph[~~clauses (i) and (ii) below~~]*** will be relied upon for determining the existence of a unique winning ticket:

1. There is one (1) and only one (1) winning ticket that correctly selected the first place finisher in each of the Pick-(n) contests, based upon the official order of finish, to be verified by the unique serial number assigned by the tote company that issued the winning ticket; or

2. The total amount wagered on one (1) and only one (1) winning combination selecting the first-place finisher in each of the Pick-(n) contests, based up on the official order of finish, is equal to the minimum allowable wager.

(17) (a) Each association shall disclose in its license application whether it intends to schedule Pick-(n) races and, if so, shall disclose:

1. The percentage of the pool to be retained for the winning wagers, and

2. The designated amount of any cap to be set on the pool to be retained for the winning wagers.

3. Any changes to the Pick-(n) scheduling shall require prior approval from the commission or its designee.

(18) An association may request permission from the commission to distribute the Pick-(n) carryover on a specific performance. The request shall contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(19) Upon written approval of the commission, a sum of money up to the amount of any designated cap may be contributed to the Pick-(n) carryover by an association. The association may supply information to the general public regarding the winning dollars in the Pick-(n) pool. The information shall not be selectively distributed. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

Section 15. Twin Trifecta Pools.

(1) The Twin Trifecta ***shall require[~~requires~~]*** the selection of the first three (3) finishers, in their exact order, in each of two (2) designated races.

(a) Each winning ticket for the first Twin Trifecta race shall be exchanged for a free ticket on the second Twin Trifecta race in order to remain eligible for the second half Twin Trifecta pool.

(b) The winning tickets may only be exchanged at attended ticket windows prior to the second Twin Trifecta race.

(c) Winning first half Twin Trifecta wagers shall receive both an exchange and a monetary payout.

(d) Both of the designated Twin Trifecta races shall be included in only one (1) Twin Trifecta pool.

(2) After wagering closes for the first half of the Twin Trifecta, and the takeout has been deducted from the pool, the net pool shall then be divided into two (2) separate pools: the first half Twin Trifecta pool and the second half Twin Trifecta pool.

(3) In the first Twin Trifecta race only, winning wagers shall be determined using the following precedence based upon the official order of finish for the first Twin Trifecta race:

(a) As a single price pool to individuals whose combination finished in the correct sequence as the first three (3) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(d) The entire Twin Trifecta pool shall be refunded on Twin Trifecta wagers for that race and Twin Trifecta wagering on the second half shall be cancelled.

(4) Except as ***established[~~set forth~~]*** in subsection (16) of this section, if no first half Twin Trifecta ticket selects the first three (3) finishers of that race in exact order:

(a) Exchange tickets for the second half Twin Trifecta pool shall not be distributed; and

(b) The second half Twin Trifecta pool shall be retained and added to any existing Twin Trifecta carryover pool.

(5) (a) Tickets from the first half of the Twin Trifecta that correctly select the first three (3) finishers shall be exchanged for tickets selecting the first three (3) finishers of the second half of the Twin Trifecta.

(b) The second half Twin Trifecta pool shall be distributed to individuals in the following precedence based upon the official order of finish for the second Twin Trifecta race:

1. As a single price pool, including any existing carryover monies, to individuals whose combination finished in correct sequence as the first three (3) betting interests except if there are not any of those wagers, then;

2. The entire second half Twin Trifecta pool for that race shall be added to any existing carryover monies and retained for the corresponding second half Twin Trifecta pool of the next consecutive performance.

(c) If a winning first half Twin Trifecta ticket is not presented for cashing and exchange prior to the second half Twin Trifecta race, the ticket holder may still collect the monetary value associated with the first half Twin Trifecta pool except the ticket holder shall forfeit all rights to any distribution of the second half Twin Trifecta pool.

(6) Mutuel entries and mutuel fields shall be prohibited in Twin Trifecta races.

(7) If a betting entry in the first half of the Twin Trifecta is scratched, Twin Trifecta wagers including the scratched betting interest shall be refunded.

(8) (a) If a betting interest in the second half of the Twin Trifecta is scratched, an immediate public announcement and immediate posting on the association's video monitors and website concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(b) If tickets have not been exchanged prior to the close of betting for the second Twin Trifecta race, the ticket holder shall forfeit all rights to the second half Twin Trifecta pool.

(9) If, due to a late scratch, the number of betting interests in the second half of the Twin Trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first half winning tickets shall be entitled to the second half pool for that race, except they shall not be entitled to the Twin Trifecta carryover.

(10) (a) If there is a dead heat or multiple dead heats in either the first or second half of the Twin Trifecta, all Twin Trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be winning wagers.

(b) If the dead heat occurs in the first half of the Twin Trifecta, the payout shall be calculated as a profit split.

(c) If the dead heat occurs in the second half of the Twin Trifecta, the payout shall be calculated as a single price pool.

(11) If the first Twin Trifecta race is canceled or declared "no contest", the entire Twin Trifecta pool shall be refunded on Twin Trifecta wagers for that race and the second half shall be cancelled.

(12) (a) If the second half Twin Trifecta race is cancelled or declared "no contest", all exchange tickets and outstanding first half winning Twin Trifecta tickets shall be entitled to the net Twin Trifecta pool for that race as a single price pool, except they shall not be entitled to the Twin Trifecta carryover.

(b) If there are no outstanding first half winning Twin Trifecta tickets, the net Twin Trifecta pool shall be distributed as described in subsection (3) of this section.

(13)(a) The Twin Trifecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the Twin Trifecta carryover equals or exceeds the designated cap, the Twin Trifecta carryover shall be frozen until it is won or distributed under the provisions of this administrative regulation.

(b) After the Twin Trifecta carryover is frozen, 100 percent of the net Twin Trifecta pool for each individual race shall be distributed to winners of the first half of the twin Trifecta pool.

(14) A written request for permission to distribute the Twin Trifecta carryover on a specific performance may be submitted to the commission. The request shall contain:

(a) Justification for the distribution;

(b) An explanation of the benefit to be derived; and

(c) The intended date and performance for the distribution.

(15) If the Twin Trifecta carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the second half of the Twin Trifecta after completion of the first half of the Twin Trifecta:

(a) As a single price pool to individuals whose combination finished in correct sequence as the first three (3) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(d) As a single price pool to holders of valid exchange tickets, except if there are not any of those wagers, then;

(e) As a single price pool to holders of outstanding first half winning tickets.

(16) For a performance designated to distribute the Twin Trifecta carryover, exchange tickets shall be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first half of the twin Trifecta.

(a) If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place finishers.

(b) If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, exchange tickets shall be issued for combinations correctly selecting only the first-place finisher.

(c) If there are no wagers selecting the first-place finisher only in the first half of the Twin Trifecta, all first half tickets shall be winning tickets and shall be entitled to 100 percent of that performance's net Twin Trifecta pool, and any existing Twin Trifecta carryover.

(17) The Twin Trifecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (14) of this section;

(b) Upon written approval from the commission if there is a change in the carryover cap or if the Twin Trifecta is discontinued; or

(c) On the closing performance of the meeting or split meeting.

(18) If, for any reason, the Twin Trifecta carryover shall be held over to the corresponding Twin Trifecta pool of a subsequent meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The Twin Trifecta carryover plus accrued interest shall then be added to the second half Twin Trifecta pool of the following meeting on a date and performance so approved by the commission.

(19) Associations shall not provide information to any individual regarding covered combinations, the number of tickets sold, or the number of valid exchange tickets. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees from processing of pool data.

(20) (a) Each association shall disclose in its license application whether it intends to schedule Twin-Trifecta wagering and, if so, shall disclose:

1. The percentages of the net pool added to the first half pool and the second half pool; and

2. The amount of any cap to be set on the carryover.

(b) Any subsequent changes to the Twin Trifecta scheduling require prior approval from the commission or its designee.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
FILED WITH LRC: November 15, 2018 at 9 a.m.
CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 7:010. Backside Improvement Fund.

RELATES TO: KRS 230.218
STATUTORY AUTHORITY: KRS 230.218(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.218(3) requires the Kentucky Horse Racing Commission to promulgate administrative regulations for using the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations in Kentucky. ***This administrative regulation establishes requirements for the backside improvement fund.***

Section 1. Definition. "Backside facilities" means those facilities located at thoroughbred horse racing associations in Kentucky where***:***

(a) Horses are stabled and quartered***;*** and

(b)[where] Stable employees work and live.

Section 2. Limitations. All monies disbursed by the commission pursuant to KRS 230.218 shall be used solely for improvements to backside facilities.

Section 3. Application.***[(1)]*** An application for monies from the backside improvement fund shall:

(1)[(a)] Be submitted to the main office of the commission; and

(2)[(b)] Include the following:

(a)[1.] A prioritized list of all proposed projects;

(b)[2.] A full written and graphic description of each proposed project, with justification of the need for each;

(c)[3.] An itemized cost estimate of each proposed project; and

(d)[4.] Any contract in existence relating to the proposed improvements.

Section 4. Consideration and Determination.***[(1)]*** An application shall be approved or denied at either:

(1)[(a)] The first regularly scheduled commission meeting that occurs after the application has been received; or

(2)[(b)] At the second regularly scheduled commission meeting, if the application is received less than seven (7) calendar days before a regularly scheduled commission meeting.

(3)[(c)] Approval of the application shall be based on the likelihood that the proposal will promote, enhance, and improve the conditions of the eligible backside facilities.

Section 5. Disbursements. All disbursements of monies and other transactions between the commission and the horse racing association involved shall be according to the terms and conditions of the project proposal as approved by the commission.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
FILED WITH LRC: November 15, 2018 at 9 a.m.
CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 7:020. Kentucky thoroughbred breeders' incentive fund.

RELATES TO: KRS 230.215, 230.330, 230.800
STATUTORY AUTHORITY: KRS 230.215(2), 230.800(2)(b)
NECESSITY, FUNCTION, AND CONFORMITY: KRS

230.215(1) declares that it is the intent of the Commonwealth to foster and to encourage the horse breeding industry within the Commonwealth and to encourage the improvement of the breeds of horses. KRS 230.215(2) vests in the racing commission forceful control of horse racing in the Commonwealth with plenary power to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breeds of horses in the Commonwealth. KRS 230.800 establishes the Kentucky Thoroughbred Breeders' Incentive Fund (KBIF). KRS 230.800(2)(b) requires the commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of payments from the fund.

Section 1. Definitions.

(1) "Allowance race" means an overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, gender, earnings, and number of wins, excluding starter allowance races.

(2) "Claiming earnings" means the gross cash portion, as this portion is determined by The Jockey Club, of the prize awarded to a qualified Kentucky claiming horse that is paid from the association or the license holder permitted to conduct racing in the jurisdiction.

(3) "Claiming race" means a race in which every horse running in the race may be transferred in conformity with 810 KAR 4:050.

(4) "Grade I stakes race" means a nonrestricted race held in the United States that has been assigned Grade I stakes status for the year contested by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association.

(5) "Grade II stakes race" means a nonrestricted race held in the United States that has been assigned Grade II stakes status for the year contested by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association.

(6) "Grade III stakes race" means a nonrestricted race held in the United States that has been assigned Grade III stakes status for the year contested by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association.

(7) "Group I race" means:

(a) A nonrestricted race held in England, France, or Ireland that has been assigned Group I race status for the year contested by the European Pattern Committee; or

(b) A nonrestricted race held in Canada that has been assigned Canadian Grade I stakes status for the year contested by the Canadian Graded Stakes Committee.

(8) "Group II race" means:

(a) A nonrestricted race held in England, France, or Ireland that has been assigned Group II race status for the year contested by the European Pattern Committee; or

(b) A nonrestricted race held in Canada that has been assigned Canadian Grade II stakes status for the year contested by the Canadian Graded Stakes Committee.

(9) "Group III race" means:

(a) A nonrestricted race held in England, France, or Ireland that has been assigned Group III race status for the year contested by the European Pattern Committee; or

(b) A nonrestricted race held in Canada that has been assigned Canadian Grade III stakes status for the year contested by the Canadian Graded Stakes Committee.

(10) "Intended breeder of record" means the owner or lessee of a thoroughbred mare who***:***

(a) Desires to***:***

1. Use the mare for breeding purposes***;*** and

2.~~[to]~~ Qualify the foal for the Kentucky Thoroughbred Breeders' Incentive Fund***;*** and

(b)~~[who]~~ Is listed as the intended breeder of record on the forms necessary to register under the KBIF.

(11) "KBIF" means the Kentucky Thoroughbred Breeders' Incentive Fund.

(12) "KBIF registered horse" means a horse registered with the Kentucky Thoroughbred Breeders' Incentive Fund.

(13) "Kentucky sire" means a sire registered as a Kentucky Thoroughbred Development Fund sire.

(14) "Maiden special weight race" means a race in which:

(a) None of the runners have been declared a winner previously; and

(b) None of the runners are eligible to be claimed.

(15) "Overnight race" means a race for which entries close at a time set by the racing secretary.

(16) "Public auction" means a thoroughbred auction conducted by a recognized member of the Society of International Thoroughbred Auctioneers, or other similar public auction approved by the KBIF advisory committee.

(17) "Qualified breeder" means the breeder of record listed in The Jockey Club records.

(18) "Qualified Kentucky claiming horse" means a foal who***:***

(a)1. Is born out of a qualified mare***;*** and

2. Is from a Kentucky sire***;***~~[,]~~ and

(b)~~[who]~~ Receives earnings from a claiming race in Kentucky.

(19) "Qualified mare" means a thoroughbred dam who resides in Kentucky from the time of the first cover in Kentucky by a Kentucky sire until foaling, unless one (1) of the exceptions in Section 5(4) of this administrative regulation is met.

(20) "Qualified winner" means a thoroughbred horse born out of a qualified mare and from a Kentucky sire that is declared the official winner by the stewards and is not eligible to be claimed in that race.

(21) "Qualified winner's earnings" means the gross cash portion of the prize, as this portion is determined by The Jockey Club, awarded to the qualified winner of a race that is paid for from the association or the license holder permitted to conduct racing in the jurisdiction.

(22) "Starter allowance" means a race written to allow claiming horses who have improved from their earlier form to run in a nonclaiming event.

Section 2. Timing of Awards; Eligibility.

(1) Disbursements from the KBIF shall be made after December 31, but not later than March 31, for awards earned for the preceding calendar year.

(2) For a horse foaled prior to 2007, the breeder shall be eligible to receive funds from the Kentucky Thoroughbred Breeders' Incentive Fund, if the horse is eligible to be registered to receive funds under the Kentucky Thoroughbred Development Fund.

(3) For a horse foaled during or after 2007, the requirements set forth in this administrative regulation shall be met.

(4) The races eligible for awards from the KBIF as provided in Sections 3 and 6 of this administration regulation shall be those run on and after January 1, 2006.

Section 3. Awards.

(1) An incentive of $50,000 shall be awarded to the qualified breeder of the qualified winner of:

(a) The Kentucky Derby; and

(b) The Kentucky Oaks.

(2)(a) An incentive shall be awarded to the twenty (20) horses with the most claiming wins in Kentucky each year.~~***[(b) Horses earning awards at a Kentucky race track through any component other than the claiming component during the same calendar year shall not be eligible for the Kentucky claiming component.]***~~

(b)~~[(c)]~~ An incentive of $200,000 shall be distributed to the twenty (20) qualified Kentucky claiming horses with the most claiming wins in Kentucky, as follows:

1. $20,000 to the horse with the most wins;
2. $17,500 to the horse with the second most wins;
3. $15,000 to the horse with the third most wins;
4. $12,500 to the horse with the fourth most wins;
5. $12,000 to the horse with the fifth most wins;
6. $11,500 to the horse with the sixth most wins;
7. $11,000 to the horse with the seventh most wins;
8. $10,500 to the horse with the eighth most wins;
9. $10,000 to the horse with the ninth most wins;

10. $9,500 to the horse with the tenth most wins;
11. $9,000 to the horse with the eleventh most wins;
12. $8,500 to the horse with the twelfth most wins;
13. $8,000 to the horse with the thirteenth most wins;
14. $7,500 to the horse with the fourteenth most wins;
15. $7,000 to the horse with the fifteenth most wins;
16. $6,500 to the horse with the sixteenth most wins; ***and***
17. $6,000 to ***each[~~the~~]*** horse with the seventeenth, eighteenth, nineteenth, and twentieth most wins.

(c)[~~(d)~~] Claiming earnings earned at a Kentucky race track from the same calendar year shall be used to settle any ties.

(d)[~~(e)~~] If two (2) or more horses have the same number of wins and the same total earnings, all incentive totals to which those horses would have been entitled shall be divided equally between or among them.

(3)(a) For those KBIF registered horses foaled in 2007 or after, an incentive shall be awarded to the qualified breeder of the qualified winner of each maiden special weight and allowance race held in the United States, but outside Kentucky, or at Woodbine Racetrack in Ontario, Canada.

(b) The incentive shall be that amount which is equal to ten (10) percent of the qualified winner's earnings except it shall not exceed $3,000.

(4)(a) An incentive shall be awarded to the qualified breeder of the qualified winner of each maiden special weight and allowance race held in Kentucky.

(b) The incentive shall be that amount that is equal to ten (10) percent of the qualified winner's earnings except it shall not exceed $3,000.

(5)(a) For those KBIF registered horses foaled in 2007 or after, an incentive shall be awarded to the qualified breeder of the qualified winner of each non-graded stakes race held in the United States, but outside Kentucky, or at Woodbine Racetrack in Ontario, Canada.

(b) The incentive shall be that amount that is equal to ten (10) percent of the qualified winner's earnings except it shall not exceed $4,000.

(6)(a) An incentive shall be awarded to the qualified breeder of the qualified winner of each non-graded stakes race held in Kentucky.

(b) The incentive shall be that amount that is equal to ten (10) percent of the qualified winner's earnings except it shall not exceed $4,000.

(7)(a) An incentive shall be awarded to the qualified breeder of the qualified winner of each:

1. Grade I stakes race held in the United States;
2. Group 1 race held in Canada, England, France, and Ireland; and
3. Group I race held on Dubai World Cup day, Japan Cup day, and Hong Kong International day.

(b) The incentive shall be $7,500.

(8)(a) An incentive shall be awarded to the qualified breeder of the qualified winner of each:

1. Grade II and Grade III stakes race held in the United States; and
2. Group 2 and Group 3 race held in Canada, England, France, and Ireland.

(b) The incentive shall be $5,000.

(9) An incentive shall not be awarded to the winner of any Breeders' Cup World Championship race.

Section 4. Registration of Foals.

(1)(a) For a horse foaled on or before December 31, 2006 and eligible to be registered under Section 2(2) of this administrative regulation, the intended breeder of record shall file a "Kentucky Thoroughbred Breeders' Incentive Fund Application for Award Form", KHRC 7-020-7, with the commission.

(b) The Kentucky Thoroughbred Breeders' Incentive Fund Application for Award form shall be filed no later than December 31 of the year following the year in which the horse has raced in a race that would qualify the horse for an incentive from the KBIF.

(c) A filing fee of thirty (30) dollars shall be deducted from the award amount.

(d) The filing fee shall be assessed one (1) time per horse.

(2) For a horse foaled on or after January 1, 2007, the intended breeder of record shall register the unborn foal with the commission on or prior to August 15 of the cover year by filing the "Kentucky Thoroughbred Breeders' Incentive Fund Application for Mare Registration Form", KHRC 7-020-1, and paying a filing fee of sixty (60) dollars, except as provided in subsection (5) of this section.

(3)(a) The commission shall be recognized and designated as the sole official registrar of the KBIF for the purposes of registering Kentucky thoroughbred foals in accordance with this administrative regulation.

(b) The records of The Jockey Club shall be used as the official records of the commission for purposes of this ***administrative*** regulation to determine the following information:

1. The identity of the qualified breeder;
2. The claiming wins and earnings for each race;
3. The qualified winners' earnings for each race;
4. The name of the qualified winner for each race;
5. The name of each horse determined to be a qualified Kentucky claiming horse;
6. The registration number or special identification number of the KBIF registered horse;
7. The name of the KBIF registered horse; and
8. Other information for purposes of administering the KBIF.

(4) If the information on a form required under this section is found to be incorrect or becomes incorrect or changes, the person considered to be the intended breeder of record shall file an amended form with the commission to correct the information.

(5)(a) The Commission may accept a late filing if the intended breeder of record can prove that the foal otherwise met the eligibility requirements to be a KBIF registered horse. The late filing shall be made on the "Kentucky Thoroughbred Breeders' Incentive Fund Application for Late Mare Registration Form", KHRC 7-020-6.

(b) The amount of the late filing fee shall be:

1. $150 for a filing made after August 15 of the cover year and on or prior to December 31 of the cover year;
2. $750 for a filing made between January 1 and December 31 of the weanling year; and
3. $1,500 for a filing made between January 1 and December 31 of the yearling year.

(6)(a) The commission may accept a special filing if a pregnant mare is purchased at public auction outside Kentucky and:

1. The mare resided in Kentucky from the time of the first cover in Kentucky by a Kentucky sire to the time of foaling;
2. The mare returned to Kentucky within fourteen (14) days of the conclusion of the auction; and
3. The foal meets all of the other eligibility requirements to be a KBIF registered horse.

(b) The special filing shall be made on the "Kentucky Thoroughbred Breeders' Incentive Fund Application for Special Filing of Mare Registration Form", KHRC 7-020-8.

(c) The amount of the special filing fee shall be:

1. $300 for a filing made between January 1 and December 31 of the cover year;
2. $1,500 for a filing made between January 1 and December 31 of the weanling year; and
3. $3,000 for a filing made between January 1 and December 31 of the yearling year.

(7) If ownership of a mare is transferred, a "Kentucky Thoroughbred Breeders' Incentive Fund Mare Transfer Form", KHRC 7-020-2, shall be filed with the commission.

(8) If any registration or nomination deadline imposed by this administrative regulation falls on a weekend or holiday, the deadline shall be moved to the next business day following the original deadline.

Section 5. Qualification of Foal and Qualified Mare.

(1) The commission may inspect where the mare proposed to be a qualified mare is boarded or request and obtain records relating to the location of the mare proposed to be a qualified mare to determine that the residency requirement is met.

(2) The person claiming to be the qualified breeder shall bear

the burden of proof to show that a mare is a qualified mare.

(3) A failure to comply with a term, condition, or requirement of this administrative regulation shall not result in the loss of the registration of the foal, if the person claiming the foal should be registered proves to the satisfaction of the commission:

(a) The failure to comply was insignificant with respect to the registration requirements as a whole; and

(b) A good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of this administrative regulation.

(4) For the thoroughbred dam to be a qualified mare, the thoroughbred dam shall have resided in Kentucky from the time of the first cover in Kentucky by a Kentucky sire until foaling, unless one (1) of the following exceptions is met:

(a) Medical procedure.

1. A medical procedure is required to be performed to protect the health of the mare or the unborn foal that involves an extraordinary medical situation and the breeder desires to have an expert located outside of Kentucky conduct the procedure;

2. The owner or the lessee of the mare files a "Kentucky Thoroughbred Breeders' Incentive Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-020-4, no later than fourteen (14) days after the mare leaves Kentucky and provides information relating to the procedure;

3. The executive director of the commission approves the departure of the mare from Kentucky ***based on the criteria in this paragraph***;

4. The mare remains under the care of a veterinarian during the entire period of time she is not residing in Kentucky other than the time during which she is traveling to and from Kentucky; and

5. The mare is in Kentucky for foaling as established by documentation provided to the commission;

(b) Training.

1. The mare has not yet delivered her first foal and is in active training outside Kentucky;

2. The owner or the lessee of the mare files a "Kentucky Thoroughbred Breeders' Incentive Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-020-4, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the training outside of Kentucky;

3. The executive director of the commission approves the departure of the mare from Kentucky ***based on the criteria in this paragraph***; and

4. The mare is in Kentucky for foaling as established by documentation provided to the commission; or

(c) Public auction.

1. The owner of the mare desires to enter her for sale at a public auction held outside of Kentucky;

2. The owner of the mare files with the commission a "Kentucky Thoroughbred Breeders' Incentive Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-020-4, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the auction;

3. The executive director of the commission approves the departure of the mare from Kentucky ***based on the criteria in this paragraph***;

4. The mare returns to Kentucky within fourteen (14) days after the conclusion of the auction; and

5. The mare is in Kentucky for foaling as established by documentation provided to the commission.

(5) The executive director shall notify the commission if an exception is made to the residency requirement pursuant to subsection (4) of this section.

(6) A qualified breeder of a qualified mare shall be responsible for:

(a) The registration and records of the KBIF registered horse; and

(b) Complying with the requirements of the Kentucky Thoroughbred Breeders' Incentive Fund.

(7) The owner or lessee of the mare may withdraw the mare's foal from the KBIF by filing a "Kentucky Thoroughbred Breeders' Incentive Fund Notice of Withdrawal of Foal Form", KHRC 7-020-5.

Section 6. Shortfall and Bonus Calculation.

(1) If, at the close of any calendar year, inadequate funding is available in the KBIF to fund the awards provided for in Section 3 of this administrative regulation, the funding shall be decreased proportionally among all awards, excluding the Kentucky claiming award, the Kentucky Oaks award, and the Kentucky Derby award, until funding is adequate to fund all awards.

(2)(a) If, at the close of a calendar year, the amount available for awards is in excess of the amount necessary to fund the awards provided in Section 3 of this administrative regulation, after payment of operating expenses, a reserve fund shall be established in the KBIF in an amount that is no more than five (5) percent of the amount of funding available from tax receipts for that calendar year.

(b) Moneys in the reserve account may be used as needed to provide funding of awards in a subsequent calendar year if the amount available at the close of the last calendar year is insufficient to fund the awards provided in Section 3 of this administrative regulation.

(c) Additional money shall not be added to the reserve fund if it contains at least $5,000,000 when the excess funding is available.

(3) If, at the close of a calendar year, the amount available for awards is in excess of the amount necessary to fund the awards provided in Section 3 of this administrative regulation and an amount has been designated for the reserve fund provided for in subsection (4)(a) of this section, then the awards shall be increased proportionally among all awards except the Kentucky claiming award, the Kentucky Oaks award, and the Kentucky Derby award.

Section 7. Application Requirements.

(1) The amount due for awards shall be calculated after the end of each calendar year. The recipient of an award shall be notified of the amount of the award to which the recipient may be entitled according to the last known address on file with the KBIF.

(2)(a) After receipt of notification of an award, each potential recipient shall return an application for the award on the "Kentucky Thoroughbred Breeders' Incentive Fund Application for Award Form", KHRC 7-020-7, certifying that the applicant is entitled to the award and certifies the applicant's United States taxpayer ID number or Social Security number.

(b) A breeder may appoint an authorized agent to complete the application by filing with the commission a "Kentucky Thoroughbred Breeders' Incentive Fund Authorized Agent Form", KHRC 7-020-3.

(3)(a) Awards due recipients who cannot be located by December 31 of the year after the year in which the qualified winner or qualified Kentucky claiming horse became eligible to receive an incentive under Section 3 of this administrative regulation shall lapse to the KBIF for distribution or building the reserve in the following year.

(b) Failure to submit the application by December 31 of the year after the year in which the qualified winner or qualified Kentucky claiming horse became eligible to receive an incentive under Section 3 of this administrative regulation shall result in forfeiture of the award and the award money shall lapse to the KBIF for distribution or building the reserve in the following year.

Section 8. Advisory Committee.

(1) The commission may establish an advisory committee to assist in administering the KBIF.

(2) If established, the advisory committee shall consist of five (5) members appointed by the chairman of the commission by July 1 of each year. Each member of the advisory committee shall:

(a) Serve from July 1 through June 30 of the following year; and

(b) Be a resident of Kentucky.

(3) The advisory committee shall select a chairman from its membership annually.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Thoroughbred Breeders' Incentive Fund

Application for Mare Registration Form", KHRC 7-020-1***, 11/2018***;

(b) "Kentucky Thoroughbred Breeders' Incentive Fund Mare Transfer Form", KHRC 7-020-2***, 11/2018***;

(c) "Kentucky Thoroughbred Breeders' Incentive Fund Authorized Agent Form", KHRC 7-020-3***, 11/2018***;

(d) "Kentucky Thoroughbred Breeders' Incentive Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-020-4***, 11/2018***;

(e) "Kentucky Thoroughbred Breeders' Incentive Fund Notice of Withdrawal of Foal Form", KHRC 7-020-5***, 11/2018***;

(f) "Kentucky Thoroughbred Breeders' Incentive Fund Application for Late Mare Registration Form", KHRC 7-020-6***, 11/2018***;

(g) "Kentucky Thoroughbred Breeders' Incentive Fund Application for Award Form", KHRC 7-020-7***, 11/2018***; and

(h) "Kentucky Thoroughbred Breeders' Incentive Fund Application for Special Filing of Mare Registration Form", KHRC 7-020-8***, 11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the KHRC Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 7:040. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund.

RELATES TO: KRS 230.215, 230.260, 230.770, 230.802, 230.990

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.770(1), (6), (7), 230.802(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting. KRS 230.770(1) establishes the Kentucky standardbred development fund. KRS 230.770(6) and (7) authorize the commission to promulgate administrative regulations establishing the eligibility of horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund and the conditions, class, and quality of the races. KRS 230.802(1) establishes the Kentucky standardbred breeders' incentive fund. KRS 230.802(2)(b) authorizes the commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, criteria for the distribution of moneys from these funds, mandatory criteria for races, and the administration of purses and payments in these races.

Section 1. Definitions.

(1) "Commission" means the Kentucky Horse Racing Commission.

(2) "Consolation" means the race following a series of preliminary legs for the next preferred horses, as set forth in section 8 of this administrative regulation, which did not qualify for the finals of each racing division of the Kentucky Sire Stakes program.

(3) "Final" means the race following a series of preliminary legs established to determine the divisional champion of each racing division of the Sire Stakes Program.

(4) "Kentucky-bred" means***[~~, for the purposes of this administrative regulation,~~]*** a standardbred horse that is:

(a) Foaled out of a standardbred mare that is registered with the commission and is a resident of Kentucky as provided in this administrative regulation; or

(b) Sired by a standardbred stallion residing in Kentucky that meets the requirements of this administrative regulation.

(5) "Kentucky Sire Stakes" means the series of races held annually in Kentucky for two (2) and three (3) year old Kentucky-bred fillies and colts, both trotting and pacing, and funded in whole or in part by the Kentucky Standardbred Development Fund or the Kentucky Standardbred Breeders' Incentive Fund.

(6) "KSBIF" means the Kentucky Standardbred Breeders' Incentive Fund as established in KRS 230.802.

(7) "KSDF" means the Kentucky Standardbred Development Fund as established in KRS 230.770.

(8) "Stallion residing in Kentucky" means a stallion physically located and standing in Kentucky for 180 days of the calendar year in which the stallion is registered that does not service mares in any other state, jurisdiction, or country outside Kentucky during the calendar year in which the stallion is registered.

(9) "USTA" means the United States Trotting Association.

Section 2. Domicile Requirements.

(1) (a) An owner, lessee, stallion manager, or syndicate manager of a standardbred stallion residing in Kentucky who desires to use the stallion to breed and to have his progeny eligible for the KSDF or KSBIF shall register the stallion with the commission by December 31st of the year of conception of the horse sought to be eligible by submitting a completed "KSDF/KSBIF Stallion Certificate of Eligibility Form", KHRC 7-040-2.

(b) Standardbred stallions not residing in Kentucky are not required to register with the commission. The progeny of a standardbred stallion not residing in Kentucky is not eligible for the KSDF or KSBIF unless the progeny is that of a standardbred mare registered under and meeting the requirements of this regulation.

(c) All standardbred stallions shall be registered with the USTA, Standardbred Canada, or other appropriate international harness racing governing agency whether residing in Kentucky or not.

(2) (a) An owner, lessee, manager, or syndicate manager of a standardbred mare who desires to use the mare for breeding purposes and to have her progeny eligible for the KSDF or KSBIF shall register the mare by December 31st of the year of conception of the horse sought to be eligible by submitting a completed "KSDF/KSBIF Mare Certificate of Eligibility Form", KHRC 7-040-3.

(b) To be eligible for registration, the mare shall:

1. Be registered with the USTA, Standardbred Canada, or other appropriate international harness racing governing agency; and

2. Have resided in Kentucky for a period of not less than 180 days in the calendar year of conception of the horse sought to be eligible.

(c) If a horse is conceived by embryo and ovum transplant (ET), both the donor mare and recipient mare shall be registered during the year of conception, and the recipient mare shall reside in Kentucky for a period of not less than 180 days in the calendar year of conception of the horse sought to be eligible.

(3) Registrations shall be received by the commission by the close of business or postmarked on the deadline established in this section in order to be eligible.

(4) An owner, lessee, stallion manager, manager, or syndicate manager of a stallion or mare eligible for the KSDF and KSBIF shall be responsible for:

(a) The registrations and records of the farm where the stallion stands or the mare resides; and

(b) Complying with all applicable requirements of this

administrative regulation.

Section 3. Eligibility.

(1) In order to qualify for the Kentucky Sire Stakes, a foal shall be a two (2) or three (3) year old Kentucky-bred and maintain eligibility for the KSDF and KSBIF.

(2) (a) Except as provided by paragraph (b) of this subsection, only a foal that is the first born to a mare (donor or recipient) in each calendar year produced by any method, including embryo and ovum transplant (ET), shall be eligible for the Kentucky Sire Stakes.

(b) Natural birth twins produced from the same pregnancy and foaling by the natural, nonrecipient mare shall also be eligible.

(3) Any future offspring of foals ineligible for racing under this section shall be ineligible for the Kentucky Sire Stakes.

Section 4. Distance. Each Kentucky Sire Stakes race shall be a one (1) mile dash.

Section 5. Post Positions. Post positions for the final, consolation**,** and all preliminary legs of the Kentucky Sire Stakes race shall be an open draw with two (2) horses drawn for the final and consolation races that are designated as "also eligibles" under Section 6(6) of this administrative regulation.

Section 6. Eligibility for the Final and Consolation Races.

(1) Beginning with the 2018 Kentucky Sire Stakes races, consolation races may be eligible for funding.

(2) A horse that does not start in at least one (1) of the preliminary legs scheduled shall not be eligible for the final or consolation.

(a) All horses earning points may enter in the final with**:**

1. The top eight (8) point earners, if the horses raced on a half (1/2) mile track or five-eighths (5/8) mile track***;[,]*** or

2. Top ten (10) point earners, if the horses raced on a one (1) mile track, to be declared eligible.

(b) On a half (1/2) mile track or five-eighths (5/8) mile track, the top eight (8) point earners ***shall not be[~~are not~~]*** eligible for the consolation. On a one (1) mile track, the top ten (10) point earners ***shall not be[~~are not~~]*** eligible for the consolation.

(c) A horse that is eligible to race in the final shall only be eligible to race in the final, unless the horse is qualified as an also eligible.

(d) A horse that is eligible to race in the consolation shall only be eligible to race in the consolation, unless qualified in the final as an also eligible.

(e) A horse that scratches from the final shall not race in the consolation.

(f) A horse that has qualified for the final or consolation shall remain eligible for the final or consolation.

(g) At least seven (7) eligible horses shall be declared for a consolation race to be contested.

(h) A horse that is automatically eligible to race in the final race shall not start in the consolation race.

(3) A horse that enters a preliminary leg that does not fill and is not raced shall receive credit toward fulfilling the minimum starting requirements set forth in subsection (2) of this section and toward determining tiebreaker status as set forth in subsection (6)(b) of this section.

(4) A horse that has been scratched from an event that is raced shall not receive credit toward meeting the starting requirements set forth in subsection (2) of this section.

(5) A horse, in order to start in the final or consolation, shall be declared at the host track where the race is being held on or before the time posted on the track condition sheet.

(6) (a) If the number of horses eligible and declared into any final or consolation event exceeds the maximum number specified by the KSDF or KSBIF or the number of positions on the starting gate, the following point system as applied to KSDF preliminary legs shall determine preference for the final:

1. 1st place - fifty (50) points;
2. 2nd place - twenty-five (25) points;
3. 3rd place - twelve (12) points;
4. 4th place - eight (8) points;
5. 5th place - five (5) points;
6. 6th place and all other starters - one (1) point; and
7. A horse finishing in a dead heat for any position in a preliminary leg shall be awarded an equal share of the total number of points awarded for that position.

(b) If there is a tie among horses after the awarding of points pursuant to paragraph (a) of this subsection, there shall be a drawing by lot among those horses tied in total points to determine which horses shall be included in the final field.

(c) If a horse that is qualified for the final or consolation is not declared, the horse with the next highest point total, pursuant to paragraph (a) of this subsection, that is declared shall be eligible for the final or consolation.

(7) Also eligibles.

(a) The two (2) horses accumulating the highest point total, pursuant to subsection (6) of this section, that are declared into the final or consolation, but do not qualify for the final or consolation, shall be designated "also eligible". The horse with the highest point total from the preliminary legs shall be designated as the "first also eligible" and the horse with the next highest point total shall be designated as the "second also eligible".

(b) A horse that is scratched in the final or consolation shall be replaced by the "first also eligible" and then the "second also eligible", if necessary.

1. If post positions have not been drawn at the time of the scratch, the "also eligible" shall take the place of the horse that has been scratched and shall participate in the normal draw.
2. If post positions have been drawn at the time of the scratch, the "also eligible" shall assume the post position of the horse that has been scratched.
3. A horse shall not be moved into the final or consolation as a replacement after the official scratch time deadline that is in effect at the host track.

Section 7. Final Order of Finish. The judges' "official order of finish" shall be used in determining eligibility to the final exclusive of all appeals yet to be decided at the time of closing of the entry box for final events.

Section 8. Detention. All starters shall be subject to the detention policy of the racetrack.

Section 9. Number of Starters.

(1) There shall not be more than:

(a) Ten (10) starters in each final race on a one (1) mile track; and

(b) Eight (8) horses on a one-half (1/2) or five-eighths (5/8) mile track.

(2) All horses shall be on the gate for the final race.

Section 10. Declaration Fees.

(1) For each horse declared to race in a preliminary leg, there shall be a declaration fee of $500. If a preliminary leg splits into two (2) or more divisions, the declaration fee shall be $500 per division.

(2) The declaration fee shall be due to the racing association at the time of declaration and payable one (1) hour prior to post time of the race.

(3) Purses for the KSDF and KSBIF shall consist of money from:

(a) Nominating fees;
(b) Sustaining fees;
(c) Declaration fees; and
(d) Added money from the Commonwealth of Kentucky.

(4)(a) Distribution of revenue for Kentucky Sire Stakes races shall be reviewed and addressed annually, not later than December 15 of each calendar year, by an advisory panel appointed by the Chairman of the commission and consisting of one (1) representative from each of the following:

1. The commission, who shall serve as the chairman of the panel;
2. The Kentucky Harness Horseman's Association;
3. The host racetrack; and

4. Two (2) participants in the fund nominated by the chairman of the commission from a group of up to six (6) nominees recommended by each of the above three (3) members having two (1) nominations each.

(b) Each member of the panel shall serve from July 1 through June 30 of the following year and shall be a resident of Kentucky.

(c) The final determination regarding distribution of revenue shall be made by the commission.

Section 11. Divisions of Preliminary Legs.

(1) The total number of horses entered shall determine the number of divisions of the preliminary legs that shall be required.

(2) Preliminary legs shall be split into divisions as follows:

(a) One (1) mile track:

1. Twelve (12) horses or less entered - one (1) division race.

2. Thirteen (13) to twenty (20) horses entered - two (2) divisions.

3. Twenty-one (21) to thirty (30) horses entered - three (3) divisions.

4. Thirty-one (31) to forty (40) horses entered - four (4) divisions.

5. Forty-one (41) to fifty (50) horses entered - five (5) divisions.

6. Fifty-one (51) to sixty (60) horses entered - six (6) divisions.

(b) One-half (1/2) and five-eighths (5/8) mile track:

1. Nine (9) to ten (10) horses entered - one (1) division.

2. Eleven (11) to sixteen (16) horses entered - two (2) divisions.

3. Seventeen (17) to twenty-four (24) horses entered - three (3) divisions.

4. Twenty-five (25) to thirty-two (32) horses entered - four (4) divisions.

5. Thirty-three (33) to forty (40) horses entered - five (5) divisions.

6. Forty-one (41) to forty-eight (48) horses entered - six (6) divisions.

(c) If the need exists for seven (7) or more divisions, eligibility to the final shall be determined in a manner consistent with the published conditions.

Section 12. Gait.

(1) Gait shall be specified by the owner of the horse on or before the first two (2) year old payment.

(2) Change of gait:

(a) May be made at the time of declaration at the track; and

(b) Sustaining payments shall remain in the funds of the original gait specified.

(3) A horse shall not race on both gaits in the same year.

Section 13. Divisions. A race shall be raced in separate divisions as follows:

(1) Colt, gelding, ridgeling divisions; and

(2) Filly divisions.

Section 14. Purse Distributions.

(1) The purses awarded for all races shall be distributed on the following percentage basis:

(a) Five (5) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and five (5) percent;

(b) Four (4) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and the remaining five (5) percent reverts back to the fund;

(c) Three (3) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, and the remaining thirteen (13) percent reverts back to the fund;

(d) Two (2) starters - fifty (50) percent, and twenty-five (25) percent, and the remaining twenty-five (25) percent reverts back to the fund; and

(e) One (1) starter - fifty (50) percent, and the remaining fifty (50) percent reverts back to the fund.

(2) The percentage basis established by subsection (1) of this section shall apply at each of the Kentucky pari-mutuel tracks.

(3) In addition to the purses set forth in subsection (1) of this section, $25,000 shall be awarded in each division of the finals to the owner of the stallion or stallions residing in Kentucky that sired the first, second, or third place finisher, as follows:

(a) First place: $15,000;

(b) Second place: $7,500; and

(c) Third place: $2,500.

Section 15. Cancellations.

(1) If circumstances prevent the racing of an event and the race is not drawn, all funds allocated to the division in each of the preliminary legs or the final shall be refunded and pro-rated to the owners of the horses eligible at the time of cancellation.

(2) The eligible horses shall include only horses that made the payments required by Section 22 of this administrative regulation.

(3) The added monies provided by the Commonwealth of Kentucky for use in the KSDF and KSBIF shall be disbursed by December 15 of each calendar year in accordance with the formula created by the panel as set out in Section 12(4) of this administrative regulation.

Section 16. Qualifying.

(1) Any horse declared into a Kentucky Sires Stakes race shall:

(a) Show at least one (1) charted race line with no breaks within forty-five (45) days prior to the day of the race; and

(b) Have satisfied the following time requirements:

1. On a track larger than five-eighths (5/8) of a mile:

a. A two (2) year old trotter shall have been timed in two minutes and six seconds (2:06) or faster;

b. A two (2) year old pacer shall have been timed in two minutes and four seconds (2:04) or faster;

c. A three (3) year old trotter shall have been timed in two minutes and two seconds (2:02) or faster; and

d. A three (3) year old pacer shall have been timed in two minutes and zero seconds (2:00) or faster.

2. On a five-eighths (5/8) mile track:

a. A two (2) year old trotter shall have been timed in two minutes and seven seconds (2:07) or faster;

b. A two (2) year old pacer shall have been timed in two minutes and five seconds (2:05) or faster;

c. A three (3) year old trotter shall have been timed in two minutes and three seconds (2:03) or faster; and

d. A three (3) year old pacer shall have been timed in two minutes and one second (2:01) or faster.

3. On a one-half (1/2) mile track:

a. A two (2) year old trotter shall have been timed in two minutes and eight seconds (2:08) or faster;

b. A two (2) year old pacer shall have been timed in two minutes and six seconds (2:06) or faster;

c. A three (3) year old trotter shall have been timed in two minutes and four seconds (2:04) or faster; and

d. A three (3) year old pacer shall have been timed in two minutes and two seconds (2:02) or faster.

(2) A horse shall be scratched from a race if the person declaring the horse has failed to advise the race secretary of a start that is not reflected on the electronic eligibilities.

(3) The requirements of this section shall apply both to wagering and nonwagering races.

Section 17. Purse Allocations.

(1) At a scheduled meeting of the commission, the commission shall:

(a) Establish the distribution of funds for stakes races for the upcoming year; and

(b) Authorize expenditures at a time it designates.

(2) The racing dates for KSDF and KSBIF stakes shall be issued after the track has established its race dates.

Section 18. Promotions. The KSDF or KSBIF shall provide a trophy for each event, and the program that provides the trophy shall purchase the trophy out of its fund.

Section 19. Nomination Fees.

(1) After payment of the nomination fee, foals shall remain eligible for events each year by making the required sustaining and

declaration payments for that year. The "KSDF/KSBIF Kentucky Sire Stakes (KYSS) Nomination Form", KHRC 7-040-1, shall be filed with the commission along with the nomination and sustaining fees.

(2) The two (2) year old March 15 payment shall be made in order to remain eligible to the KSDF and KSBIF as a three (3) year old.

(3). Nomination and sustaining payments shall be made to the KSDF and KSBIF in U.S. funds by a money order or a check drawn on a U.S. bank account.

Section 20. Nomination Schedule.

(1) Yearlings shall be nominated by May 15 of their yearling year, except as provided in subsection (4) of this section.

(2) For yearlings sired by a standardbred stallion residing in Kentucky and registered with the KSDF and KSBIF, the nomination fee shall be forty (40) dollars per yearling. For yearlings sired by a standardbred stallion not residing in Kentucky, the nomination fee shall be eighty (80) dollars per yearling.

(3) Nominated horses shall be registered with the USTA, Standardbred Canada, or other appropriate international harness racing governing agency and shall be properly identified to the satisfaction of the commission at the time of the nomination. Identification shall be determined by the official registration maintained by the USTA, Standardbred Canada, or other appropriate international harness racing governing agency.

(4) If a horse is not nominated during its yearling year, the horse may be nominated prior to March 15 of its two (2) year old year if:

(a) For horses sired by a standardbred stallion residing in Kentucky and registered with the KSDF and KSBIF, a nomination fee of $500 is made by March 15 of the horse's two (2) year old year, along with the sustaining payment required by subsection (5)(a) of this section; or

(b) For horses sired by a standardbred stallion not residing in Kentucky, a nomination fee of $600 is made by March 15 of the horse's two (2) year old year, along with the sustaining payment required by subsection (5)(a) of this section.

(5) Sustaining payments shall be as follows:

(a) TWO (2) YEAR OLD PAYMENTS	
March 15	$300
April 15	$300
May 15	$300
March 15 payment shall be mandatory to make entry eligible as a three (3) year old.	

(b) THREE (3) YEAR OLD PAYMENTS	
February 15	$300
March 15	$300
April 15	$300

Section 21. Early Closing Events. The commission may provide for separate early closing events for Kentucky-bred horses.

Section 22. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "KSDF/KSBIF Kentucky Sire Stakes (KYSS) Nomination Form", KHRC 7-040-1***, 11/2018***;

(b) "KSDF/KSBIF Stallion Certificate of Eligibility Form", KHRC 7-040-2***, 11/2018***; and

(c) "KSDF/KSBIF Mare Certificate of Eligibility Form", KHRC 7-040-3***, 11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the KHRC Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund.

RELATES TO: KRS 138.510, 230.215, 230.225, 230.443, 230.445

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.445

NECESSITY, FUNCTION AND CONFORMITY: KRS 230.215 and 230.260 authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting. KRS 230.445 establishes the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of purses and payments in these races.

Section 1. Definitions.

(1) "Broodmare" means a mare that conceives and carries her genetic foal to term.

(2) "Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.

(3) "Fund" means the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund established by KRS 230.445.

(4) "Historical horse race handle" means monies wagered at a licensed Kentucky association on historical horse races as defined in 810 KAR 2:001.

(5) "Inter-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted outside of Kentucky.

(6) "Intra-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted at another Kentucky association.

(7) "Kentucky bred" means a horse that meets the requirements of this administrative regulation and is:

(a) A Quarter Horse registered with the American Quarter Horse Association, or its successor;

(b) An Appaloosa registered with the Appaloosa Horse Club, or its successor;

(c) An Arabian registered with the Arabian Horse Association Registry, or its successor; or

(d) A Paint Horse registered with the American Paint Horse Association, or its successor.

(8) "Live racing handle" means the monies wagered by individuals present on association grounds on Quarter Horse, Paint Horse, Appaloosa, or Arabian races physically conducted on that association's grounds.

(9) "Mare" means a broodmare, donor mare, or recipient mare.

(10) "Nonlive racing handle" means the monies wagered at an association located in Kentucky on Quarter Horse, Paint Horse, Appaloosa, or Arabian races not physically conducted on that association's grounds.

(11) "Recipient mare" means a mare of any breed who:

(a) Is implanted with an embryo from a donor mare;

(b) Carries the non-genetic foal to term; and

(c) Is implanted with an electronic horse identification microchip that accurately identifies the horse and is compliant with international standards ISO 11784.

Section 2. Advisory Committee. The fund advisory committee shall consist of five (5) members, all of whom shall be Kentucky residents, to be appointed by the chairman of the commission by July 1 of each year. The committee shall consist of the following:

(1) One (1) member of the commission;

(2) One (1) officer or director of a licensed racing association in Kentucky conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing;

(3) One (1) owner of a horse nominated to the fund;

(4) One (1) owner of a mare registered with the fund; and

(5) One (1) member of the Kentucky Quarter Horse Racing Association recommended by that organization's board of directors.

Section 3. Mare Eligibility.

(1) In order for a foal to be eligible to earn money from the fund, the broodmare or both the donor and recipient mares shall be registered with the fund on or before February 15 of the year of conception. Late registration may be accepted on or before June 15 of the year of conception as provided by subsection (4) of this section.

(2) In order to be eligible to be registered with the fund, a mare, whether a broodmare, donor mare, or recipient mare, shall reside in Kentucky continuously from conception or embryo transfer implantation until foaling unless one (1) of the exceptions established in this subsection is met.

(a) Medical procedure.

1. A medical procedure is required to be performed to protect the health of the mare or the unborn foal that involves an extraordinary medical situation and the owner of the mare desires to have an expert located outside of Kentucky conduct the procedure;

2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, within fourteen (14) days after the mare leaves Kentucky and provides information related to the procedure as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky;

4. The mare remains under the care of a veterinarian during the entire period of time she is not residing in Kentucky, other than the time during which she is traveling to and from Kentucky;

5. The mare returns to Kentucky following the medical procedure for which her departure was authorized; and

6. The mare is in Kentucky for foaling, as established by documentation provided to the commission;

(b) Racing.

1. The owner of the mare desires to race the mare in a pari-mutuel race that is:

a. Held outside Kentucky; and

b. Sanctioned by the governing body of the jurisdiction in which the race is to be held;

2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky"", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the race outside of Kentucky as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky ***based on the criteria in this paragraph***;

4. The mare returns to Kentucky within ten (10) days after the running of the approved race; and

5. The mare is in Kentucky for foaling as established by documentation provided to the commission; or

(c) Auction.

1. The owner of the mare desires to enter her for sale at a catalogued auction for her breed held outside of Kentucky;

2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the auction as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky ***based on the criteria in this paragraph***;

4. The mare returns to Kentucky no later than thirty (30) days after the auction; and

5. The mare is in Kentucky for foaling, as established by documentation provided to the commission.

(3) The owner of a mare approved to leave the state under subsection (2) of this section shall provide the commission with written notification of the mare's return within forty-eight (48) hours of her return.

(4) A mare shall be registered with the fund by:

(a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 7-060-1;

(b) Providing the commission with a photocopy of the mare's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, the Arabian Horse Association Registry, or The Jockey Club or their respective successors, or documentation regarding a recipient mare's electronic horse identification microchip; and

(c) Paying the registration fee as follows:

1. A twenty-five (25) dollar fee for registrations postmarked no later than February 15 of the year of conception; or

2. A $200 late fee for registrations postmarked after February 15 and no later than June 15 of the year of conception.

Section 4. Nomination.

(1) Except as set forth in subsection (5) of this section, in order for a horse to be eligible to earn money from the fund, it shall be a Kentucky bred as defined in this administrative regulation and shall be nominated to the fund on or before December 31 of its yearling year by:

(a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2;

(b) Providing the commission with a photocopy of the horse's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors; and

(c) Paying the nomination fee as follows:

1. A twenty-five (25) dollar fee for nominations postmarked no later than December 31 of the weanling year; or

2. A $100 fee for nominations postmarked after the weanling year but no later than December 31 of the yearling year.

(2) Except as provided in subsection (5) of this section, nominations postmarked after December 31 of the yearling year shall not be accepted.

(3) In order for a foal that is the product of an embryo transfer to be eligible to earn monies from the fund, the donor mare and the recipient mare shall be registered as provided in Section 3 of this administrative regulation and shall meet the other requirements of this administrative regulation.

(4) If a registered donor mare produces more than one (1) foal in one (1) breeding season, two (2) genetic foals may be nominated to the fund as determined by the owner of the donor mare.

(5) A horse born before 2017 shall be eligible for nomination to the fund and participating in races offering monies from the fund. A horse shall be nominated by:

(a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2;

(b) Paying a nomination fee of $300; and

(c) Including the following with the nomination form:

1. A photocopy of the official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors;

2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;

3. An official breed registry shipped semen report or a stallion breeders certificate demonstrating that the horse was conceived in Kentucky; and

4. A signed affidavit from the owner of the mare at the time of her pregnancy stating that the mare resided in Kentucky during the entirety of her pregnancy.

(6) Nothing in this section shall prevent a registered mare from being eligible to race for monies from the fund.

Section 5. Monies Earned.

(1) One (1) live association.

(a) Live racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of the total live racing handle pursuant to KRS 138.510(1).

(b) Nonlive racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of two (2) percent of the total non-live racing handle pursuant to KRS 138.510(2).

(2) More than one (1) live association. Unless there is a commission approved agreement among the associations conducting live racing to the contrary, if two (2) or more associations are conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races on the same day, the monies earned from the handle for that day shall be divided as established in this subsection.

(a) Live racing handle. An association conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of that association's live racing handle pursuant to KRS 138.510(1).

(b) The intra-state wagering monies shall be allocated to that association on which the wagering is placed for purposes of calculating that association's fund earnings.

(c) Inter-state wagering monies originating from an association conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall be allocated to that association for purposes of calculating that association's fund earnings.

(d) Inter-state wagering monies from all other Kentucky associations shall be divided evenly among the associations conducting live races.

(3) Historical horse race handle. An association offering wagering on historical horse races shall earn monies to be deposited in the fund account for that association as provided in KRS 138.510(1).

Section 6. Distribution of Funds.

(1) Each association shall submit a request to the advisory committee, including the proposed races eligible to receive monies from the fund and the proposed purse structure for those races, at least forty-five (45) days prior to the opening day of the live racing meet.

(2) Unless there is a commission approved proposal to the contrary, the proposed purse structure shall not exceed the total dollars generated by that breed to the association's fund account.

(3) The advisory committee shall review the proposed eligible races and purse structure and make a recommendation whether to approve the proposed races and purse structure to the commission based upon the best interests of Kentucky racing.

(4) Two (2) or more associations conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing may request permission from the advisory committee to combine their respective fund monies to supplement purses at one (1) of the associations. The advisory committee shall recommend to the commission whether to approve the request.

Section 7. Reconciliation.

(1) Each association shall file weekly with the commission a copy of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check submitted for each report.

(2) Each association shall report to the commission the actual purse distribution within fifteen (15) calendar days after the last day of a live race meeting.

(3) The commission shall on a monthly basis reconcile the weekly reports submitted by the association with the Department of Revenue's reports and deposits.

(4) If, at the close of a live race meet, an association has a balance of monies earned for that meet that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute the remaining balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use fund monies previously earned to supplement purses at future live racing meets held by that association; or

(b) Use fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations.

(5) If, at the close of a live race meet, an association offering wagering on historical horse races has a balance of fund monies earned from historical horse race wagers that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute a portion of the balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use the historical horse race fund monies previously earned to supplement purses at future live racing meets held by that association;

(b) Use historical horse race fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations; or

(c) Use historical horse race fund monies previously earned to supplement purses at another licensed Kentucky racetrack.

(6) Reasonable and customary administrative charges for time spent reconciling the account may be charged to each association by the commission based on the percentage of funds generated by each association for the previous calendar year.

(7) Each association shall sign an agreement stating that it accepts and agrees with the reconciliation prior to reimbursement of any funds.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 7-060-1***, 11/2018***;

(b) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2***, 11/2018***; and

(c) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-060-3***, 11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the commission's Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
KENTUCKY HORSE RACING COMMISSION
(As Amended at ARRS, April 9, 2019)

810 KAR 7:070. Violations, discipline, disputes, and investigation.

RELATES TO: KRS ***13B,*** 230.215, 230.225(5)(c), 230.320, 230.330, 230.400, ***230.445[~~230.400 445~~]***, 230.770, 230.800, 230.802, 230.804.

STATUTORY AUTHORITY: KRS 230.370, ***230.400,[~~KRS~~]*** 230.445, 230.770(6) and (7), 230.802(1) and (2)(b),***[~~KRS~~]*** 230.804(2)(b).

NECESSITY, FUNCTION AND CONFORMITY: KRS 230.400 establishes the Kentucky Thoroughbred Development Fund and requires the Kentucky Horse Racing Commission to promulgate administrative regulations as may be necessary to carry out its provisions and purposes. KRS 230.800(2)(b) requires the commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the Kentucky Thoroughbred Breeders' Incentive Fund. KRS 230.770(6) and (7) authorize the commission to promulgate administrative regulations establishing the eligibility of horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund and the conditions, class, and quality of the races. KRS 230.802(1) establishes the Kentucky standardbred breeders' incentive fund. KRS 230.802(2)(b) authorizes the commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund. KRS 230.804(2)(b) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the Kentucky Horse Breeders' Incentive Fund. KRS 230.445 establishes the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky. KRS 230.370 authorizes the commission to promulgate any reasonable and necessary administrative regulation for the conduct of hearings before it. This administrative regulation establishes a uniform process for enforcing the standards for distribution of money from these funds and for resolving disputes related to them.

Section 1. Violations.

(1) It shall be a violation of this administrative regulation if an applicant or registrant under 810 KAR 7:020 to 7:060, or a person otherwise eligible for or claiming entitlement to an award from a fund administered under 810 KAR 7:020 to 7:060:

(a) Provides any official registrar under KRS 230.400, any advisory committee, or the commission with incorrect, false, or misleading information;

(b) Fails to furnish information requested by the official registrar, advisory committee, or commission within thirty (30) days;

(c) Is charged or convicted of a crime, offense, or other criminal or civil violation involving cruelty, mistreatment, abuse, or neglect of a horse;

(d) Engages in conduct that is against the best interests of horse breeding or horse racing; or

(e) Violates any provision of KRS Chapter 230 or KAR Title 810 in any other manner.

(2) For any violation of this ***administrative*** regulation, the commission may:

(a) Deny an application;

(b) Suspend, deny, or revoke a registration; or

(c) Deny or revoke an award.

(3) In addition to the penalties in subsection 2, for a violation of this administrative regulation, the commission may bar a person from participation in any incentive or development fund under 810 KAR Chapter 7 for a period of one (1) to five (5) years based on the seriousness of the violation. For a second or subsequent violation of this administrative regulation, the commission may impose a lifetime bar from participation in any fund administered under 810 KAR Chapter 7.

(4) A person charged, but not convicted of a crime, offense, or other criminal or civil violation as provided in subsection (1)(c) may petition the commission for reinstatement. The commission shall reinstate the earnings, registration, or application upon submission of proof satisfactory to the commission that the charges were dismissed and the facts forming the basis of the charges were false.

Section 2. Disciplinary Process.

(1) The commission shall investigate suspected violations of this administrative regulation.

(2) Upon the completion of the investigation, the person or persons conducting the investigation shall submit a written report to the executive director containing a statement of the facts disclosed by the investigation.

(3) Based on consideration of the investigative report, the executive director shall determine whether there is prima facie cause to believe that a violation has been committed.

(4) Upon determination that prima facie cause exists, the executive director shall issue written notice of disciplinary action. The notice shall set forth:

(a) The statutory or regulatory violation;

(b) The factual basis on which the disciplinary action is based;

(c) The penalty imposed; and

(d) A statement that the notice may be appealed to an administrative hearing by written notice sent to the commission within twenty (20) calendar days of issuance of the notice.

(5)[~~(7)~~] Notice of a disciplinary action under this section may be appealed to an administrative hearing. A written request for an administrative hearing shall be filed with the commission within twenty (20) calendar days of the date of the executive director's notice. The request shall identify the specific issues in dispute and the legal basis on which the executive director's decision on each issue is believed to be erroneous.

(6)[~~(8)~~] An administrative hearing under this section shall be conducted under KRS Chapter 13B.

(7)[~~(9)~~] If the request for an administrative hearing is not timely filed, the penalty laid out in the notice of disciplinary action shall be effective upon the expiration of the time to request an administrative hearing.

Section 3. Disputes.

(1) Any non-disciplinary dispute between the commission and an applicant or registrant under 810 KAR 7:020 to 7:060, or a person otherwise eligible for or claiming entitlement to an award from a fund administered under 810 KAR 7:020 to 7:060, shall be raised by the aggrieved party by filing a petition seeking relief with the executive director of the commission within thirty (30) days of the action or the inaction leading to the dispute.

(2) If the executive director and the aggrieved party do not agree on a resolution of the dispute, the executive director shall refer the matter for an administrative hearing under KRS Chapter 13B.

Section 4. Consent to Investigate; Additional Information. Application or registration under 810 KAR 7:020 to 7:060, or submission of any claim for an award from a fund administered under 810 KAR 7:020 to 7:060, shall constitute consent to:

(1) Investigation by the commission or any advisory committee of all information provided to the commission or any advisory committee;

(2) Site visits to verify all mare and stallion residency requirements set forth in 810 KAR Chapter 7; and

(3) Provide any additional information requested by the commission or any advisory committee.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 8:010. Medication; Testing Procedures; Prohibited Practices.

RELATES TO: KRS 230.215, 230.225, 230.240, 230.260, 230.265, 230.290, 230.320, 230.370
STATUTORY AUTHORITY: KRS 230.215***(2)***, 230.225, 230.240***(2)***, 230.260***(8)***, 230.320, 230.370
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2), 230.260(8), and 230.320 authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to ***the horse*** participating in a race. This administrative regulation establishes requirements and controls in the administration of drugs, medications, and substances to horses, governs certain prohibited practices, and establishes trainer responsibilities relating to the health and fitness of horses.

Section 1. Definitions.
(1) "AAS" or "anabolic steroid" means an anabolic androgenic steroid.
(2) "Administer" means to apply to or cause the introduction of a substance into the body of a horse.
(3) "Commission laboratory" means a laboratory chosen by the commission to test biologic specimens from horses taken under the supervision of the commission veterinarian.
(4) "Location under the jurisdiction of the commission" means a licensed race track or a training center as described in KRS 230.260(5).
(5) "Permitted NSAIDs" means the following permitted non-steroidal anti-inflammatory drugs: phenylbutazone, flunixin, and ketoprofen, if administered in compliance with Section 8 of this administrative regulation.
(6) "Positive finding" means the commission laboratory has conducted testing and determined that a drug, medication, or substance, the use of which is restricted or prohibited by this administrative regulation, 810 KAR 8:020, or 810 KAR 8:040, was present in the sample.
(a) For the drugs, medications, or substances listed in this administrative regulation or 810 KAR 8:020 for which an established concentration level is provided, it shall be necessary to have a finding in excess of the established concentration level as provided for the finding to be considered a positive finding.
(b) Positive finding also includes:
1. Substances present in the horse in excess of concentrations at which the substances could occur naturally; and
2. Substances foreign to a horse that cause interference with testing procedures.
(7) "Primary sample" means the primary sample portion of the biologic specimen taken under the supervision of the commission veterinarian to be tested by the commission laboratory.
(8) "Split sample" means the split sample portion of the biologic specimen taken under the supervision of the commission veterinarian to be tested by the split sample laboratory.
(9) "Split sample laboratory" means the laboratory approved by the commission to test the split sample portion of the biologic specimen from horses taken under the supervision of the commission veterinarian.
(10) "Test barn" means a fenced enclosure sufficient in size and facilities to accommodate the stabling of horses temporarily detained for obtaining biologic specimens for testing.***[~~(11) "Therapeutic AAS" means boldenone, nandrolone, or testosterone.~~]***

Section 2. Use of Medication.
(1) Therapeutic measures and medication necessary to improve or protect the health of a horse shall be administered to a horse in training under the direction of a licensed veterinarian.
(2) Except as expressly permitted in 810 KAR Chapter 8, while participating in a race (betting or non-betting), qualifying race, or time trial, it shall be a violation for a horse to carry in its body any drug, medication, substance, or metabolic derivative, that:
(a) Is foreign to the horse; or
(b) Might mask the presence of a prohibited drug, or obstruct testing procedures.
(3) It shall be a violation for therapeutic medications to be present in excess of established threshold concentrations ***established[~~set forth~~]*** in this administrative regulation or in 810 KAR 8:020. The thresholds for permitted NSAIDs are ***established[~~set forth~~]*** in Section 8 of this administrative regulation.
(4) Except as provided by paragraphs (a) and (b) of this subsection, it shall be a violation for a substance to be present in a horse in excess of a concentration at which the substance could occur naturally. It shall be the responsibility of the commission to prove that the substance was in excess of normal concentration levels.
(a) Gamma amino butyric acid shall not be present in a concentration greater than 110 nanograms per milliliter in serum or plasma.
(b) Cobalt shall not be present in a concentration greater than twenty-five (25) parts per billion in serum or plasma.
(5) It shall be prima facie evidence that a horse was administered and carried, while running in a race (betting or non-betting), qualifying race, or time trial, a drug, medication, substance, or metabolic derivative thereof prohibited by this section if:
(a) A biologic specimen from the horse was taken under the supervision of the commission veterinarian promptly after a horse ran in a race (betting or non-betting), qualifying race, or time trial; and
(b) The commission laboratory presents to the commission a report of a positive finding.
(6) The commission shall utilize the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 810 KAR 8:020, for classification of drugs, medications, and substances violating this administrative regulation. Penalties for violations of this administrative regulation shall be implemented in accordance with 810 KAR 8:030.

Section 3. Treatment Restrictions.
(1) Except as provided in Section 4 of this administrative regulation, a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall not administer by injection a prescription or controlled drug, medication, or other substance to a horse at a location under the jurisdiction of the commission.
(2) The only injectable substance allowed within twenty-four (24) hours prior to post time of the race in which the horse is entered shall be furosemide, as ***established[~~set forth~~]*** in Section 6 of this administrative regulation.
(3) Except as provided by subsection (5) of this section, a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall not possess a hypodermic needle, syringe, or injectable of any kind at a location under the jurisdiction of the commission.
(4) A veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall use only single-use disposable needles and syringes, and shall dispose of them in a container approved by the commission veterinarian.

(5) If a person regulated by the commission has a medical condition that makes it necessary to possess a needle and syringe at a location under the jurisdiction of the commission, the person shall request prior permission from the stewards or judges and furnish a letter from a licensed physician explaining why it is necessary for the person to possess a needle and syringe. The stewards or judges may grant approval for a person to possess and use a needle and syringe at a location under the jurisdiction of the commission, but may also establish necessary restrictions and limitations.

(6) A commission employee may accompany a veterinarian at a location under the jurisdiction of the commission and take possession of a syringe, needle, or other device used to administer a substance to a horse.

Section 4. Certain Permitted Substances. Liniments, antiseptics, antibiotics, ointments, leg paints, washes, and other products commonly used in the daily care of horses may be administered by a person, other than a licensed veterinarian if:

(1) The treatment does not include any drug, medication, or substance otherwise prohibited by this administrative regulation;

(2) The treatment is not injected; and

(3) The person is acting under the direction of a licensed trainer or veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission.

Section 5. Anti-ulcer Medications. The following anti-ulcer medications may be administered orally, at the dosage stated in this section, up to twenty-four (24) hours prior to post time of the race in which the horse is entered:

(1) Cimetidine (Tagamet): eight (8) to twenty (20) milligrams per kilogram;

(2) Omeprazole (Gastrogard): two and two-tenths (2.2) grams;

(3) Ranitidine (Zantac): eight (8) milligrams per kilogram; and

(4) Sucralfate: two (2) to four (4) grams.

Section 6. Furosemide Use on Race Day.

(1) Furosemide may be administered, in accordance with this section, to a horse that is entered to compete in a race, qualifying race, or time trial.

(2)(a) Only the commission veterinarian shall administer furosemide prior to a race, qualifying race, or time trial.

(b) If the commission veterinarian is unavailable to administer furosemide to a horse prior to a race, qualifying race, or time trial, the commission shall approve a licensed veterinarian to perform the administration. The approved licensed veterinarian shall agree to comply with ***this administrative regulation[~~all of the applicable administrative regulations~~]*** regarding the administration of furosemide on race day.

(c) If the furosemide is administered by an approved licensed veterinarian, the administering veterinarian shall provide a written report to the commission veterinarian no later than two (2) hours prior to post time of the race in which the horse receiving the furosemide is competing.

(3) Furosemide may be used under the circumstances established in this subsection.

(a) Furosemide shall be administered at a location under the jurisdiction of the commission where the horse is scheduled to race.

(b) Furosemide shall be administered by a single intravenous injection, not less than four (4) hours prior to post time for the race, qualifying race, or time trial in which the horse is entered.

(c) The furosemide dosage administered shall not exceed 500 milligrams, nor be less than 150 milligrams.

(d) The specific gravity of a post-race urine sample shall not be below 1.010. If the specific gravity of the post-race urine sample is determined to be below 1.010, a quantification of furosemide in serum or plasma shall be performed by the commission laboratory. If a horse fails to produce a urine specimen, the commission laboratory shall perform a quantification of furosemide in the serum or plasma sample. Concentrations above 100 nanograms of furosemide per milliliter of serum or plasma shall constitute a violation of this section.

(4) The initial cost of administering the furosemide shall be twenty (20) dollars per administration. The commission shall monitor the costs associated with administering furosemide and consult with industry representatives to determine if the cost should be lowered based on prevailing veterinarian services and supplies. The commission shall maintain records documenting the basis for its determination, and if the cost is determined to be less than twenty (20) dollars per administration, then the commission shall lower the cost accordingly. The cost shall be prominently posted in the racing office.

Section 7. Furosemide Eligibility.

(1)(a) A horse shall be eligible to race with furosemide if the licensed trainer or a licensed veterinarian determines that it would be in the horse's best interests to race with furosemide. Notice that a horse eligible to receive furosemide will race with or without furosemide shall be made at the time of entry to ensure public notification, including publication in the official racing program.

(b) It shall constitute a violation of this administrative regulation if notice is made pursuant to this section that a horse will race with furosemide, and the post-race urine, serum, or plasma does not show a detectable concentration of furosemide in the post-race urine, serum, or plasma.

(2) After a horse has been determined to no longer be required to receive furosemide, the horse shall not be eligible to receive furosemide unless the licensed trainer or a licensed veterinarian determines that it would be in the horse's best interest to race with furosemide and the licensed trainer or a licensed veterinarian complies with the requirements of this section.

Section 8. Permitted Non-steroidal Anti-inflammatory Drugs (NSAIDs).

(1) One (1) of the following NSAIDs may be used by a single intravenous injection not less than twenty-four (24) hours prior to post time for the race in which the horse is entered if the concentration in the horse's specimen does not exceed the following levels when tested post-race:

(a) Phenylbutazone - not to exceed two (2.0) micrograms per milliliter of serum or plasma;

(b) Flunixin - not to exceed twenty (20) nanograms per milliliter of serum or plasma; and

(c) Ketoprofen - not to exceed two (2) nanograms per milliliter of serum or plasma.

(2) NSAIDS, including the permitted NSAIDs, shall not be administered within twenty-four (24) hours prior to post time for the race in which the horse is entered. However, as provided in 810 KAR 8:020, the recommended withdrawal guideline for flunixin is thirty-two (32) hours prior to post time for the race in which the horse is entered.

(3)(a) The use of any NSAID other than the permitted NSAIDs, and the use of multiple permitted NSAIDs shall be discontinued at least forty-eight (48) hours prior to post time for the race in which the horse is entered.

(b) A finding of phenylbutazone below a concentration of three-tenths (0.3) microgram per milliliter of serum or plasma shall not constitute a violation of this section.

(c) A finding of flunixin below a concentration of three (3) nanograms per milliliter of serum or plasma shall not constitute a violation of this section.

(d) A finding of ketoprofen below a concentration of one (1) nanogram per milliliter of serum or plasma shall not constitute a violation of this section.

Section 9. Anabolic Steroids.

(1) An exogenous AAS shall not be present in a horse that is racing. The detection of an exogenous AAS or metabolic derivative in a post-race sample shall constitute a violation of this administrative regulation.

(2) The detection in a post-race sample of an endogenous AAS or metabolic derivative where the concentration of the AAS or metabolic derivative exceeds naturally occurring physiological levels shall constitute a violation of this administrative regulation. The following shall be deemed to be naturally occurring

physiological levels:

(a) Boldenone:

1. In male horses other than geldings, free and conjugated boldenone fifteen (15) nanograms per milliliter in urine or free boldenone twenty-five (25) picograms per milliliter in serum or plasma; and

2. In geldings and female horses, free and conjugated boldenone one (1) nanogram per milliliter in urine or free boldenone twenty-five (25) picograms per milliliter in serum or plasma.

(b) Nandrolone:

1. In geldings, free and conjugated nandrolone one (1) nanogram per milliliter in urine or free nandrolone twenty five (25) picograms per milliliter in serum or plasma;

2. In fillies and mares, free and conjugated nandrolone one (1) nanogram per milliliter in urine or free nandrolone twenty five (25) picograms per milliliter in serum or plasma; and

3. In male horses other than geldings, forty-five (45) nanograms per milliliter of metabolite, 5α-estrane-3β, 17α-diol in urine or a ratio in urine of 5α-estrane-3β, 17α-diol to 5α-estrene-3β, 17α-diol of >1:1.

(c) Testosterone:

1. In geldings, free and conjugated testosterone twenty (20) nanograms per milliliter in urine or free testosterone one hundred (100) picograms per milliliter in serum or plasma; and

2. In fillies and mares (unless in foal), free and conjugated testosterone fifty-five (55) nanograms per milliliter in urine or free testosterone one hundred (100) picograms per milliliter in serum or plasma.

(3) The gender of the horse from which a post-race biologic specimen is collected shall be identified to the commission veterinarian and the testing laboratory.

Section 10. Test Barn.

(1)***[;]*** A licensed association shall provide and maintain a test barn on association grounds.

(2) The test barn shall be a fenced enclosure sufficient:

(a) In size and facilities to accommodate the stabling of horses temporarily detained for the taking of biologic specimens; and

(b) In structural design to prevent entry by unauthorized persons.

(3) The test barn shall be under the supervision and control of the ***Chief Racing Veterinarian or his or her designee[~~commission chief veterinarian~~]***, and no access to individuals other than commission personnel shall be permitted unless with the permission of the ***Chief Racing Veterinarian or his or her designee[~~commission chief veterinarian~~]***. If association personnel require immediate access to the test barn due to fire or other emergency, the association shall report the access to commission officials as soon as possible after the emergency.

Section 11. Sample Collection, Testing and Reporting.

(1) Sample collection shall be done in accordance with the procedures provided in this administrative regulation, 810 KAR 8:060**,** and under the instructions provided by the commission veterinarian.

(2) The commission veterinarian, in consultation with the commission laboratory shall determine a minimum sample requirement which shall be uniform for each horse and which shall be separated into primary and split samples.

(3) An owner or trainer may request that a split sample be tested by a split sample laboratory approved by the Commission.

(4) The cost of testing under subsection (3) of this section, including shipping, shall be borne by the owner or trainer requesting the test.

(5) (a) Stable equipment other than that necessary for washing and cooling out a horse shall not be permitted in the test barn.

(b) Buckets and water shall be furnished by the commission veterinarian.

(c) If a body brace is to be used on a horse, it shall:

1. Be supplied by the trainer; and

2. Applied only with the permission and in the presence of the commission veterinarian or his designee.

(d) A licensed veterinarian may attend to a horse in the test barn only with the permission of and in the presence of the commission veterinarian or his designee.

(6) Within five (5) business days of receipt of notification by the commission laboratory of a positive finding, the stewards and judges shall notify the owner and trainer orally or in writing of the positive finding.

(7) The stewards or judges shall conduct a hearing as soon as possible after the conclusion of an investigation of a positive finding. A person charged with a violation may request a continuance, which the stewards or the judges may grant for good cause shown.

Section 12. Storage and Shipment of Split Samples.

(1) Split samples shall be secured and made available for further testing in accordance with the procedures established in this subsection:

(a) Split samples shall be secured in the test barn in the same manner as the primary samples for shipment to the commission laboratory, as ***established[~~addressed~~]*** in Section 11 of this administrative regulation, until the primary samples are packed and secured for shipment to the commission laboratory. Split samples shall then be transferred to a freezer or refrigerator at a secure location approved and chosen by the commission.

(b) A freezer or refrigerator for storage of split samples shall be equipped with a lock. The lock shall be secured to prevent access to the freezer or refrigerator at all times except as specifically provided by paragraph (c) of this subsection.

(c) A freezer or refrigerator for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

(d) A log shall be maintained by the commission veterinarian that shall be used each time a split sample freezer or refrigerator is opened to specify each person in attendance, the purpose for opening the freezer or refrigerator, identification of split samples deposited or removed, the date and time the freezer or refrigerator was opened, the time the freezer or refrigerator was closed, and verification that the lock was secured prior to and after opening of the freezer or refrigerator. A commission veterinarian or his designee shall be present when the freezer or refrigerator is opened.

(e) Evidence of a malfunction of a split sample freezer or refrigerator shall be documented in the log.

(f) The commission shall be considered the owner of a split sample.

(2)(a) A trainer or owner of a horse receiving notice of a positive finding may request that a split sample corresponding to the portion of the sample tested by the commission laboratory be sent to the split sample laboratory. The party requesting the split sample shall select a laboratory solicited and approved by the commission to perform the analysis.

(b) The request shall be made in writing and delivered to the stewards or judges within three (3) business days after the trainer or owner of the horse receives oral or written notice of the positive finding by the commission laboratory.

(c) A split sample so requested shall be shipped as expeditiously as possible.

(3) (a) The owner or trainer requesting testing of a split sample shall be responsible for the cost of the testing, including the cost of shipping.

(b) Failure of the owner, trainer, or a designee to appear at the time and place designated by the commission veterinarian in connection with securing, maintaining, or shipping the split sample shall constitute a waiver of any right to be present during split sample testing procedures.

(c) Prior to shipment of the split sample, the commission shall confirm:

1. That the split sample laboratory has agreed to provide the testing requested;

2. That the split sample laboratory has agreed to send results to the commission; and

3. That arrangements for payment satisfactory to the split sample laboratory have been made.

Section 13. Split Sample Chain of Custody.

(1) Prior to opening the split sample freezer or refrigerator, the commission shall provide a split sample chain of custody verification form. The form to be used shall be the Split Sample Chain of Custody Form. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample and shall contain the following information:

(a) The date and time the sample is removed from the split sample freezer or refrigerator;

(b) The sample number; and

(c) The address where the split sample is to be sent.

(2) A split sample shall be removed from the split sample freezer or refrigerator by a commission employee after notice to the owner, trainer, or designee thereof and a commission-designated representative shall pack the split sample for shipment in accordance with the packaging procedures directed by the commission. The Split Sample Chain of Custody Form shall be signed by both the owner's representative, if present, and the commission representative to confirm the proper packaging of the split sample for shipment. The exterior of the package shall be secured and sealed to prevent tampering with the package.

(3) The owner, trainer, or designee, if present, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(4) The Split Sample Chain of Custody Form shall be completed and signed by the representative of the commission and the owner, trainer, or designee, if present.

(5) The commission representative shall retain the original Split Sample Chain of Custody Form and provide a copy to the owner, trainer, or designee, if requested.

Section 14. Medical Labeling.

(1) A drug or medication which, by federal or state law, requires a prescription shall not be used or kept on association grounds unless validly prescribed by a duly licensed veterinarian.

(2) A drug or medication shall bear a prescription label which is securely attached and clearly ascribed to show the following:

(a) The name of the product;

(b) The name, address, and telephone number of the veterinarian prescribing or dispensing the product;

(c) The name of the horse for which the product is intended or prescribed;

(d) The dosage, duration of treatment, and expiration date of the prescribed or dispensed product; and

(e) The name of the trainer to whom the product was dispensed.

Section 15. Trainer Responsibility.

(1) In the absence of substantial evidence to the contrary, a trainer shall be responsible for the condition of a horse in his or her care.

(2) In the absence of substantial evidence to the contrary, a trainer shall be responsible for the presence of a prohibited drug, medication, substance, or metabolic derivative, including permitted medication in excess of the maximum allowable concentration, in a horse in his or her care.

(3) A trainer shall prevent the administration of a drug, medication, substance, or metabolic derivative that may constitute a violation of this administrative regulation.

(4) A trainer whose horse has been claimed shall remain responsible for a violation of this administrative regulation regarding that horse's participation in the race in which the horse is claimed.

(5) A trainer shall be responsible for:

(a) Maintaining the assigned stable area in a clean, neat, and sanitary condition at all times;

(b) Using the services of those veterinarians licensed by the commission to attend to horses that are on association grounds;

(c) The proper identity, custody, care, health, condition, and safety of horses in his or her care;

(d) Promptly reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;

(e) Promptly reporting to the racing secretary and the commission veterinarian if a posterior digital neurectomy (heel nerving) is performed on a horse in his or her care and ensuring this fact is designated on its certificate of registration;

(f) Promptly reporting to the racing secretary the name of a mare in his or her care that has been bred and is entered to race;

(g) Promptly notifying the commission veterinarian of a reportable disease or communicable illness in a horse in his or her care;

(h) Promptly reporting the serious injury or death of a horse in his or her care at a location under the jurisdiction of the commission to the ***stewards or*** judges and the commission veterinarian and ensuring compliance with Section 22 of this administrative regulation and 810 KAR 4:010, Section 14, governing postmortem examinations;

(i) Maintaining a medication record and medication status of horses in his or her care;

(j) Promptly notifying the stewards or judges and the commission veterinarian if the trainer has knowledge or reason to believe that there has been an administration to a horse of a drug, medication, or other substance prohibited by this administrative regulation or has knowledge or reason to believe that a prohibited practice has occurred as ***established[~~set forth~~]*** in Section 20 of this administrative regulation;

(k) Ensuring the fitness of every horse in his or her care to perform creditably at the distance entered;

(l) Ensuring that every horse he or she has entered to race is present at its assigned stall for a pre-race soundness inspection as prescribed by 810 KAR 2:010**.** Section 4(1)(l);

(m) Ensuring proper bandages, equipment, and shoes;

(n) Ensuring the horse's presence in the paddock at the time prescribed by racing officials before the race in which the horse is entered;

(o) Personally attending in the paddock and supervising the saddling or preparation of a horse in his or her care, unless an assistant trainer fulfills these duties or the trainer is excused by the judges or stewards pursuant to 810 KAR ***4:100, Section 3(2)(f)[~~3:040, Section 3(4)~~]***; and

(p) Attending the collection of a biologic specimen taken from a horse in his or her care or delegating a licensed employee or the owner to do so.

Section 16. Licensed Veterinarians.

(1) A veterinarian licensed by the commission and practicing at a location under the jurisdiction of the commission shall be considered under the supervision of the commission veterinarian and the stewards or judges.

(2) A veterinarian shall report to the stewards, judges or the commission veterinarian a violation of this administrative regulation by a licensee.

Section 17. Veterinary Reports.

(1) A veterinarian who treats a horse at a location under the jurisdiction of the commission shall submit a Veterinary Report of Horses Treated to be Submitted Daily form to the commission veterinarian containing the following information:

(a) The name of the horse treated;

(b) The type and dosage of drug or medication administered or prescribed;

(c) The name of the trainer of the horse;

(d) The date and time of treatment; and

(e) Other pertinent treatment information requested by the commission veterinarian.

(2) The Veterinary Report of Horses Treated to be Submitted Daily form shall be signed by the treating practicing veterinarian.

(3) The Veterinary Report of Horses Treated to be Submitted Daily form shall be on file not later than the time prescribed on the next race day by the commission veterinarian.

(4) The Veterinary Report of Horses Treated to be Submitted Daily form shall be confidential, and its content shall not be

disclosed except in the course of an investigation of a possible violation of this administrative regulation or in a proceeding before the stewards, judges or the commission, or to the trainer or owner of record at the time of treatment.

(5) A timely and accurate filing of a Veterinary Report of Horses Treated to be Submitted Daily form by the veterinarian or his designee that is consistent with the analytical results of a positive test reported by the commission laboratory may be used as a mitigating factor in determining the appropriate penalties pursuant to 810 KAR 8:030.

(6) A veterinarian having knowledge or reason to believe that a horse entered in a race has received a drug, medication, or substance prohibited under this administrative regulation or has knowledge or reason to believe that a prohibited practice has occurred as ***established[~~set forth~~]*** in Section 20 of this administrative regulation shall report this fact immediately to the commission veterinarian or to the stewards or judges.

(7) A practicing veterinarian shall maintain records of all horses treated and of all medications sold or dispensed. The records shall include:

(a) The name of the horse;

(b) The trainer of the horse;

(c) The date, time, amount, and type of medication administered;

(d) The drug or compound administered;

(e) The method of administration; and

(f) The diagnosis.

(8) The records shall be retained for at least sixty (60) days after the horse has raced and shall be available for inspection by the commission.

Section 18. Veterinarian's List.

(1) The commission veterinarian shall maintain a list of horses determined to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity, or other medical condition.

(2) A horse may be removed from the veterinarian's list when, in the opinion of the commission veterinarian, the horse is capable of competing in a race.

(3) The commission shall maintain a bleeder list of all horses that have demonstrated external evidence of exercise-induced pulmonary hemorrhage during or after a race or workout as observed by the commission veterinarian.

(4) Every horse that is a confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to participate in a race (betting or non-betting), qualifying race, time trial, or for the following time periods:

(a) First incident - fourteen (14) days;

(b) Second incident within a 365-day period - thirty (30) days;

(c) Third incident within a 365-day period - 180 days; and

(d) Fourth incident within a 365-day period - barred from racing for life.

(5) For the purpose of counting the number of days a horse is ineligible to run, the day after the horse bled externally shall be the first day of the recovery period.

(6) The voluntary administration of furosemide without an external bleeding incident shall not subject a horse to the initial period of ineligibility as ***established[~~defined~~]*** in this section.

Section 19. Distribution of Purses, Barn Searches, and Retention of Samples.

(1) For all races, purse money in thoroughbred and other flat racing shall be paid or distributed pursuant to the process provided in 810 ***KAR*** 2:070, Section ***27(3)[~~29(3)~~]***, and in standardbred racing, no later than twenty-four (24) hours after notice from the commission that a final laboratory report has been issued.

(2) The distribution of purse money prior to the issuance of a final laboratory report shall not be considered a finding that no prohibited drug, medication, substance, or metabolic derivative has been administered to a horse.

(3) After the commission laboratory issues a positive finding the executive director of the commission or the stewards or judges may authorize and execute an investigation into the circumstances surrounding the incident that is the subject of the positive finding.

(4) If the purse money has been distributed, the stewards or judges shall order the money returned immediately to the association upon notification from the commission laboratory that a prohibited drug, medication, substance, or metabolic derivative was administered to a horse eligible for purse money.

(5) At the conclusion of testing by the commission laboratory and split sample laboratory, the remaining portion of the samples at the commission laboratory and split samples remaining at the test barn may be retained at a proper temperature at a secure facility approved and chosen by the commission. If a report indicating a positive finding has been issued, the commission shall use its best reasonable efforts to retain any remaining portion of the sample until legal proceedings have concluded. The commission may freeze samples.

Section 20. Other Prohibited Practices Constituting a Violation of this Administrative Regulation.

(1) A drug, medication, substance, or device shall not be possessed or used by a licensee, or his designee or agent, within a non-public area at a location under the jurisdiction of the commission:

(a) The use of which may endanger the health and welfare of the horse; or

(b) The use of which may endanger the safety of the rider or driver.

(2) Without the prior permission of the commission or its designee, a drug, medication, or substance that has never been approved by the United States Food and Drug Administration (USFDA) for use in humans or animals shall not be possessed or used at a location under the jurisdiction of the commission. The commission shall determine whether to grant prior permission after consultation with the Equine Drug Research Council.

(3) The following blood-doping agents shall not be possessed or used at a location under the jurisdiction of the commission:

(a) Erythropoietin;

(b) Darbepoietin;

(c) Oxyglobin;

(d) Hemopure; or

(e) Any substance that abnormally enhances the oxygenation of body tissue.

(4) A treatment, procedure, or therapy shall not be practiced, administered, or applied which may:

(a) Endanger the health or welfare of a horse; or

(b) Endanger the safety of a rider or driver.

(5) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be used unless the conditions established in this subsection are met.

(a) A treated horse shall not race for a minimum of ten (10) days following treatment.

(b) A veterinarian licensed to practice by the commission shall administer the treatment.

(c) The commission veterinarian shall be notified prior to the delivery of the machine on association grounds.

(d) Prior to administering the treatment, a report shall be submitted by the veterinarian administering the treatment to the commission veterinarian on the Veterinary Report of Horses Treated with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy**.**

(6) Other than furosemide, an alkalizing substance that could alter the serum or plasma pH or concentration of bicarbonates or carbon dioxide in a horse shall not be used within twenty-four (24) hours prior to post time of the race in which the horse is entered.

(7) Without the prior permission of the commission veterinarian or his designee, based on standard veterinary practice for recognized conditions, a nasogastric tube which is longer than six (6) inches shall not be used for the administration of any substance within twenty-four (24) hours prior to post time of the race in which the horse is entered.

(8) A serum or plasma total carbon dioxide (TCO2) level shall not exceed thirty-seven (37.0) millimoles per liter; except, a violation shall not exist if the TCO2 level is found to be normal for the horse following the quarantine procedure ***established[~~set forth~~]*** in Section 21 of this administrative regulation.

(9) A blood gas machine shall not be possessed or used by a person other than an authorized representative of the commission at a location under the jurisdiction of the commission.

(10) A shock wave therapy machine or radial pulse wave therapy machine shall not be possessed or used by anyone other than a veterinarian licensed by the commission at a location under the jurisdiction of the commission.

Section 21. TCO_2 Testing and Procedures.

(1)(a) The stewards, judges, or commission veterinarian may order the pre-race or post-race collection of blood specimens from a horse to determine the total carbon dioxide concentration in the serum or plasma of the horse. The winning horse and other horses, as selected by the stewards or judges, may be tested in each race to determine if there has been a violation of this administrative regulation.

(b) Pre-race sampling shall be done at a reasonable time, place, and manner directed by the chief state steward in consultation with the commission veterinarian.

(c) A specimen consisting of at least two (2) blood tubes shall be taken from a horse to determine the TCO_2 concentration in the serum or plasma of the horse. If the commission laboratory determines that the TCO_2 level exceeds thirty-seven (37.0) millimoles per liter plus the laboratory's measurement of uncertainty, the executive director of the commission shall be informed of the positive finding.

(d) Split sample testing for TCO_2 may be requested by an owner or trainer in advance of the collection of the specimen by the commission veterinarian; however, the collection and testing of a split sample for TCO_2 testing shall be done at a reasonable time, place, and manner directed by the commission veterinarian.

(e) The cost of split sample testing, including the cost of shipping, shall be borne by the owner or the trainer.

(2)(a) If the level of TCO_2 is determined to exceed thirty-seven (37.0) millimoles per liter plus the laboratory's measurement of uncertainty and the licensed owner or trainer of the horse certifies in writing to the stewards or judges within twenty-four (24) hours after the notification of the test result that the level is normal for that horse, the owner or trainer may request that the horse be held in quarantine. If quarantine is requested, the licensed association shall make guarded quarantine available for that horse for a period of time to be determined by the steward or judges, but in no event for more than seventy-two (72) hours.

(b) The expense for maintaining the quarantine shall be borne by the owner or trainer.

(c) During quarantine, the horse shall be retested periodically by the commission veterinarian.

(d) The horse shall not be permitted to race during a quarantine period, but it may be exercised and trained at times prescribed by the licensed association and in a manner that allows monitoring of the horse by a commission representative.

(e) During quarantine, the horse shall be fed only hay, oats, and water.

(f) If the commission veterinarian is satisfied that the horse's level of TCO_2, as registered in the original test, is physiologically normal for that horse, the stewards or judges:

1. Shall permit the horse to race; and

2. May require repetition of the quarantine procedure ***established[~~set forth~~]*** in paragraphs (a) through (f) of this subsection to reestablish that the horse's TCO_2 level is physiologically normal.

Section 22. Postmortem Examination.

(1) A horse that dies or is euthanized on the grounds of a licensed association or training center under the jurisdiction of the commission shall undergo a postmortem examination at the discretion of the commission and at a facility designated by the commission, through its designee, as provided in 810 KAR 4:010, Section 14.

(2) The commission shall bear the cost of an autopsy that is required by the commission.

(3) The presence of a prohibited drug, medication, substance, or metabolic derivative thereof in a specimen collected during the postmortem examination of a horse may constitute a violation of this administrative regulation.

Section 23. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Veterinary Report of Horses Treated to be Submitted Daily", KHRC 8-010-1***, 11/2018***;

(b) "Split Sample Chain of Custody Form", KHRC 8-010-2***, 11/2018***; and

(c) "Veterinary Report of Horses Treated with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy", KHRC 8-010-3***, 11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the commission's Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.

RELATES TO: KRS 230.215, 230.225, 230.240, 230.260, 230.265, 230.290, 230.320, 230.370

STATUTORY AUTHORITY: KRS 230.215***(2)***, 230.225, 230.240***(2)***, 230.260, 230.320, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes the drug classification schedule in effect in Kentucky and the withdrawal guidelines for permitted drugs, medications, and substances that may be administered to race horses competing in Kentucky.

Section 1. The ***["]***Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule***["]***, KHRC 8-020-1, shall establish the respective classifications of all substances contained therein. The ***["]***Kentucky Horse Racing Commission Withdrawal Guidelines Thoroughbred; Standardbred; Quarter Horse, Appaloosa, and Arabian***["]***, KHRC 8-020-2, shall provide certain mandatory treatment requirements and guidance and advice on withdrawal intervals as contained therein.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule", KHRC 8-020-1***, 11/2018***; and

(b) "Kentucky Horse Racing Commission Withdrawal Guidelines Thoroughbred; Standardbred; Quarter Horse, Appaloosa, and Arabian", KHRC 8-020-2***, 11/2018***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington,

Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m., or on the commission's Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
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PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 8:030. Disciplinary measures and penalties.

RELATES TO: KRS 230.215, 230.260, 230.265, 230.290, 230.300, 230.310, 230.320, 230.361
STATUTORY AUTHORITY: KRS 230.215(2), 230.240(2), 230.260(8), 230.265, 230.320
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations under which racing shall be conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes the penalty structure for rule violations and also establishes disciplinary powers and duties of the stewards, judges, and the commission.

Section 1. Definitions. (1) "Associated person" means the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that the other person or entity would care for or train a horse or perform veterinarian services on a horse for the benefit, credit, reputation, or satisfaction of the inactive person.

(2) "Class A drug" means a drug, medication, or substance classified as a Class A drug, medication, or substance in the schedule.

(3) "Class B drug" means a drug, medication, or substance classified as a Class B drug, medication, or substance in the schedule.

(4) "Class C drug" means a drug, medication, or substance classified as a Class C drug, medication, or substance in the schedule.

(5) "Class D drug" means a drug, medication, or substance classified as a Class D drug, medication, or substance in the schedule.

(6) "Companion" means a person who cohabits with or shares living accommodations with an inactive person.

(7) "Inactive person" means a trainer or veterinarian who has his or her license denied or suspended or revoked for thirty (30) or more days pursuant to KAR Title 810 or KRS Chapter 230.

(8) "NSAID" means a non-steroidal anti-inflammatory drug.

(9) "Primary threshold" means the thresholds for phenylbutazone, flunixin, and ketoprofen provided in 810 KAR 8:010, Section 8(1)(a), (b), and (c), respectively.

(10) "Schedule" means the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 810 KAR 8:020.

(11) "Secondary threshold" means the thresholds for phenylbutazone, flunixin, and ketoprofen provided in 810 KAR 8:010, Section 8(3)(b), (c) and (d), respectively.

(12) "Withdrawal guidelines" means the Kentucky Horse Racing Commission Withdrawal Guidelines established in 810 KAR 8:020.

Section 2. General Provisions. (1) An alleged violation of the provisions of KRS Chapter 230 or KAR Title 810 shall be adjudicated in accordance with this administrative regulation, 810 KAR 9:010, and KRS Chapters 230 and 13B.

(2) If a drug, medication, or substance that is not classified in the schedule is found to be present in a pre-race or post-race sample or possessed or used by a licensee at a location under the jurisdiction of the commission, the commission may establish a classification after consultation with either or both of the Association of Racing Commissioners International and the Racing and Medication Testing Consortium or their respective successors.

(3) The stewards, judges, and the commission shall consider any mitigating or aggravating circumstances properly presented when assessing penalties pursuant to this administrative regulation. Evidence of full compliance with the withdrawal guidelines shall be considered by the stewards, judges, and the commission as a mitigating factor to be used in determining violations and penalties.

(4) A licensee whose license has been suspended or revoked in any racing jurisdiction or a horse that has been deemed ineligible to race in any racing jurisdiction shall be denied access to locations under the jurisdiction of the commission during the term of the suspension or revocation.

(5) A suspension or revocation shall be calculated in***[Kentucky]*** calendar days, unless otherwise specified by the stewards, judges, or the commission in a ruling or order.

(6) Notice of the assessment of a penalty, including a written warning, shall be made to the person penalized. The notice and terms of the penalty shall be posted immediately on the official Web site of the commission and sent to the United States Trotting Association, the Association of Racing Commissioners International, or their successors, as applicable, to be posted on their respective official Web sites. If an appeal is pending, that fact shall be so noted.

(7) A horse administered a substance in violation of 810 KAR 8:010 may be required to pass a commission-approved examination as determined by the stewards ***or judges*** pursuant to 810 KAR 4:010, Section 10 ***or 810 KAR 5:010, Section 4***, or be placed on the veterinarian's list pursuant to 810 KAR 8:010, Section 18.

(8) To protect the racing public and ensure the integrity of racing in Kentucky, a trainer whose penalty for a Class A violation or for a Class B third offense violation has not been finally adjudicated may, if stall space is available, be required to house a horse that the trainer has entered in a race in a designated stall for the twenty-four (24) hour period prior to post time of the race in which the horse is entered. If the stewards or judges require the trainer's horse to be kept in a designated stall, there shall be twenty-four (24) hour surveillance of the horse by the association, and the cost shall be borne by the trainer.

(9) In addition to the penalties contained in Section 4 of this administrative regulation for the trainer and owner, any other person who administers, is a party to, facilitates, or is found to be responsible for any violation of 810 KAR 8:010 shall be subject to the relevant penalty as provided for the trainer or other penalty as may be appropriate based upon the violation.

(10) A veterinarian who administers, is a party to, facilitates, or is found to be responsible for any violation of KRS Chapter 230 or ***KAR*** Title 810***[KAR]*** shall be reported to the Kentucky Board of Veterinary Examiners and the state licensing Board of Veterinary Medicine by the stewards or judges.

(11) In accordance with KRS 230.320(6), an administrative action or the imposition of penalties pursuant to this administrative regulation shall not constitute a bar or be considered jeopardy to prosecution of an act that violates the criminal statutes of Kentucky.

(12) If a person is charged with committing multiple or successive overages involving a Class C or Class D drug, medication, or substance, the stewards, judges, or the commission may charge the person with only one (1) offense if the person demonstrates that he or she was not aware that overages were being administered because the positive test results showing the overages were unavailable to the person charged. In this case, the

person alleging that he or she was not aware of the overages shall bear the burden of proving that fact to the stewards, judges, or the commission.

(13) If a penalty for a medication violation requires a horse to be placed on the stewards' list or the judges' list for a period of time, the stewards or judges may waive this requirement if ownership of the horse was legitimately transferred prior to the trainer's notification by the commission of the positive result.

(14) In standardbred racing only, if the penalty is for a driving violation and does not exceed in time a period of five (5) days, the driver may complete the engagement of all horses declared in before the penalty becomes effective. The driver may drive in stake, futurity, early closing and feature races, during a suspension of five (5) days or less, but the suspension shall be extended one (1) day for each date the driver drives in a race.

(15) A horse shall not be permitted to race while owned or controlled wholly or in part by a person whose license has been suspended or revoked.

(16) An association under the jurisdiction of the commission shall not willfully allow:

(a) A person whose license has been suspended or revoked in any jurisdiction to participate in racing;

(b) A horse suspended in any jurisdiction to start in a race or a performance against time; or

(c) The use of its track or grounds by a licensee whose license has been suspended or revoked and has been denied access to the grounds by the stewards or judges in any jurisdiction.

(17) If a person is ejected or excluded from a location under the jurisdiction of the commission, the stewards, judges, and commission director of security shall be notified in writing.

(18) A licensee that has been suspended shall serve any suspension imposed:

(a) During the current race meet, if there are enough remaining days to serve out the suspension;

(b) During the next regularly scheduled race meet at the operating race track where the infraction took place if there are not enough remaining days to serve out the suspension; or

(c) At the discretion of the stewards or judges, during a race meet at another operating track in any jurisdiction where the licensee seeks to engage in the activity for which he or she is licensed if the track where the infraction took place closes before another race meet is held at that track.

(19) A penalty imposed by the governing body of any racing jurisdiction or the USTA States Trotting Association shall be recognized and reciprocally enforced by the commission unless application is made for a hearing before the stewards or judges, during which the applicant shall show cause as to why the penalty should not be enforced against him in Kentucky. The hearing shall be limited to the following issues:

(a) Whether the applicant is the same person who is subject to the penalty imposed;

(b) Whether the USTA or other racing jurisdiction in fact suspended the applicant; and

(c) Determination of the time period of the suspension as imposed by the USTA or other racing jurisdiction.

Section 3. Prior Offenses. A prior offense occurring in Kentucky or any other racing jurisdiction shall be considered by the stewards, judges, and the commission in assessing penalties. The stewards or judges shall attach to a penalty judgment a copy of the offender's prior record listing violations that were committed both inside and outside of Kentucky.

Section 4. Penalties for Class A, B, C, and D Drug Violations and NSAID and Furosemide Violations.

(1) Class A drugs. ***The penalties established in paragraphs (a) and (b) of this subsection shall apply to a Class A drug violation.***

(a) Trainer

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
One (1) to three (3) year suspension, absent mitigating circumstances; AND $10,000 to $25,000 fine, absent mitigating circumstances .	Three (3) to five (5) year suspension, absent mitigating circumstances; AND $25,000 to $50,000 fine, absent mitigating circumstances.	Five (5) year suspension to a lifetime ban, absent mitigating circumstances; AND $50,000 to $100,000 fine, absent mitigating circumstances.

(b) Owner

First offense	Second lifetime offense in any racing jurisdiction in a horse owned by the same owner	Third lifetime offense in any racing jurisdiction in a horse owned by the same owner
Disqualification and loss of purse; AND Horse shall be placed on the stewards' list or judges' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND Horse shall be placed on the stewards' list or judges' list for 120 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND Ninety (90) day suspension, absent mitigating circumstances; AND $50,000 fine, absent mitigating circumstances; AND Horse shall be placed on the stewards' list or judges' list for 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

(2)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Class B drugs;

2. Gamma amino butyric acid in a concentration greater than 110 nanograms per milliliter; and

3. Cobalt in a concentration greater than fifty (50) parts per billion.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Thirty (30) to sixty (60) day suspension, absent mitigating circumstances;	Sixty (60) to 180 day suspension, absent mitigating circumstances; AND	180 to 365 day suspension, absent mitigating circumstances; AND

AND $500 to $1,000 fine, absent mitigating circumstances.	$1,000 to $2,500 fine, absent mitigating circumstances.	$2,500 to $5,000 fine, absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner	Third offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner
Disqualification and loss of purse; Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges; AND For a cobalt violation, the horse shall be placed on the stewards' list or judges' list until the horse tests below twenty-five (25) parts per billion. The owner shall be responsible for the cost of testing.	Disqualification and loss of purse; AND Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND Horse shall be placed on the stewards' list or judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

(3)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to a Class C drug violation and an overage of permitted NSAIDs as follows:

1. Phenylbutazone in a concentration greater than five (5.0) micrograms per milliliter;

2. Flunixin in a concentration greater than 100 nanograms per milliliter; and

3. Ketoprofen in a concentration greater than fifty (50) nanograms per milliliter.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Zero to ten (10) day suspension absent mitigating circumstances; AND $500 to $1,500 fine absent mitigating circumstances.	Ten (10) to thirty (30) day suspension absent mitigating circumstances; AND $1,500 to $2,500 fine absent mitigating circumstances.	Thirty (30) to sixty (60) day suspension absent mitigating circumstances; AND $2,500 to $5,000 fine absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Disqualification and loss of purse; AND Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND If same horse as first offense, horse shall be placed on the stewards' list or judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; $5,000 fine, absent mitigating circumstances; AND If same horse as first and second offenses, horse shall be placed on the stewards' list or judges' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

(4)(a)The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Overage of permitted NSAIDs as follows:

a. Phenylbutazone in a concentration greater than two (2.0) micrograms per milliliter through five (5.0) micrograms per milliliter;

b. Flunixin in a concentration greater than twenty (20) nanograms per milliliter through 100 nanograms per milliliter; and

c. Ketoprofen in a concentration greater than two (2.0) nanograms per milliliter through fifty (50) nanograms per milliliter;

2. Overage of furosemide in a concentration greater than 100 nanograms per milliliter;

3. Furosemide not identified when notice made that the horse would run on furosemide; and

4. Cobalt in a concentration greater than twenty-five (25) parts per billion through fifty (50) parts per billion.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Written warning to a $500 fine, absent mitigating circumstances.	Written warning to a $750 fine, absent mitigating circumstances.	$500 to $1,000 fine, absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction

Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges; AND For a cobalt violation, the horse shall be placed on the stewards' list or judges' list until the horse tests below twenty-five (25) parts per billion. The owner shall be responsible for the cost of testing.	Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	If same horse as first and second offenses, disqualification and loss of purse; AND Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

(d) If a furosemide violation occurs due solely to the actions or inactions of the commission veterinarian, then the trainer and owner shall not be penalized.

(5) Multiple NSAIDs. ***The penalties established in paragraphs (a) and (b) of this subsection shall apply to an*** overage of two (2) permitted NSAIDs***:*** phenylbutazone, flunixin, and ketoprofen.

(a) Trainer

	Concentrations of both permitted NSAIDs above the primary threshold.	Concentrations of one (1) permitted NSAID above the primary threshold and one (1) above the secondary threshold.	Concentrations of both permitted NSAIDs below primary threshold and above secondary threshold.
First offense	Zero to sixty (60) day suspension, absent mitigating circumstances; AND $500 to $1,000 fine, absent mitigating circumstances.	Zero to fifteen (15) day suspension, absent mitigating circumstances; AND $250 to $750 fine, absent mitigating circumstances.	Zero to five (5) day suspension, absent mitigating circumstances; AND $250 to $500 fine, absent mitigating circumstances.
Second offense within a 365-day period in any racing jurisdiction	Sixty (60) to 180 day suspension, absent mitigating circumstances; AND $1,000 to $2,500 fine, absent mitigating circumstances.	Fifteen (15) to thirty (30) day suspension, absent mitigating circumstances; AND $750 to $1,500 fine, absent mitigating circumstances.	Five (5) to ten (10) day suspension, absent mitigating circumstances; AND $500 to $1,000 fine, absent mitigating circumstances.
Third offense within a 365-day period in any racing jurisdiction	180 to 365 day suspension, absent mitigating circumstances; AND $2,500 to $5,000 fine, absent mitigating circumstances.	Thirty (30) to sixty (60) day suspension, absent mitigating circumstances; AND $1,500 to $3,000 fine, absent mitigating circumstances.	Ten (10) to fifteen (15) day suspension, absent mitigating circumstances; AND $1,000 to $2,500 fine, absent mitigating circumstances.

(b) Owner

	Concentrations of both permitted NSAIDs above the primary threshold.	Concentrations of one (1) permitted NSAID above the primary threshold and one (1) above the secondary threshold.	Concentrations of both permitted NSAIDs below primary threshold and above secondary threshold.
First offense	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.
Second offense within a 365-day period in any racing jurisdiction	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.
Third offense within a 365-day period in any racing jurisdiction	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.

(6) Class D drugs.

(a) The penalties established in paragraph (b) of this subsection shall apply to a Class D drug violation.

(b) Trainer

One (1) to four (4) offenses within a 365-day period in any racing jurisdiction	Five (5) or more offenses within a 365-day period in any racing jurisdiction
Zero to five (5) day suspension, absent mitigating circumstances; AND $250 to $500 fine, absent mitigating circumstances.	Five (5) to ten (10) day suspension, absent mitigating circumstances; AND $500 to $1,000 fine, absent mitigating circumstances.

Section 5. TCO2 Penalties. ***The penalties established in subsections (1) and (2) of this section shall apply to a violation[~~Penalties for violations~~]*** of 810 KAR 8:010, Section 20(6), (7), or (8)***.[~~shall be as follows:~~]***

(1) Trainer

First	Second offense	Third offense	Subsequent

offense	within a 365-day period in any racing jurisdiction	within a 365-day period in any racing jurisdiction	offenses within a 365-day period in any racing jurisdiction
Zero to ninety (90) day suspension, absent mitigating circumstances; AND $1,000 to $1,500 fine, absent mitigating circumstances.	Ninety (90) to 180 day suspension, absent mitigating circumstances; AND $1,500 to $3,000 fine, absent mitigating circumstances.	180 to 365 day suspension, absent mitigating circumstances; AND $3,000 to $5,000 fine, absent mitigating circumstances.	One (1) year suspension to lifetime ban, absent mitigating circumstances.

(2) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction	Subsequent offenses within a 365-day period in any racing jurisdiction
Disqualification and loss of purse.	Disqualification and loss of purse; AND If same horse as first offense, horse shall be placed on the stewards' list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Disqualification and loss of purse; AND If same horse as first and second offenses, horse shall be placed on the stewards' list from sixty (60) to 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Disqualification and loss of purse; AND If same horse as first, second, and third offenses, horse shall be placed on the stewards' list from 180 to 365 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.

Section 6. Shock Wave Machine and Blood Gas Machine Penalties. ***The penalties established in subsections (1) and (2) of this section shall apply to a violation[~~Penalties for violations~~]*** of 810 KAR 8:010, Section 20(5), (9), or (10)***.[~~, shall be as follows:~~]***

(1) Trainer

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
Thirty (30) to sixty (60) day suspension absent mitigating circumstances; AND $1,000 to $5,000 fine absent mitigating circumstances.	Sixty (60) to 180 day suspension absent mitigating circumstances; AND $5,000 to $10,000 fine absent mitigating circumstances.	180 to 365 day suspension absent mitigating circumstances; AND $10,000 to $20,000 fine absent mitigating circumstances.

(2) Owner

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
Disqualification and loss of purse.	Disqualification and loss of purse; AND If same horse as first offense, horse shall be placed on the stewards' list or judges' list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND If same horse as first and second offenses, horse shall be placed on the stewards' list or judges' list from sixty (60) to 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

Section 7. Persons with a Suspended or Revoked License.

(1) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive person. The partners in a veterinary practice may provide services to horses if the inactive person does not receive a pecuniary benefit from those services.

(2) An associated person of an inactive person shall not:

(a) Assume the inactive person's responsibilities at a location under the jurisdiction of the commission;

(b) Complete an entry form for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked; or

(c) Pay or advance an entry fee for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked.

(3) An associated person who assumes the responsibility for the care, custody, or control of an unsuspended horse owned (fully or partially), leased, or trained by an inactive person shall not:

(a) Be paid a salary directly or indirectly by or on behalf of the inactive person;

(b) Receive a bonus or any other form of compensation in cash, property, or other remuneration or consideration;

(c) Make a payment or give remuneration or other compensation or consideration to the inactive person or associated person; or

(d) Train or perform veterinary work for the inactive person or an owner or customer of the inactive person at a location under the jurisdiction of the commission.

(4) A person who is responsible for the care, training, or veterinary services provided to a horse formerly under the care, training, or veterinary services of an inactive person shall:

(a) Bill customers directly on his or her bill form for any services rendered at or in connection with any race meeting in Kentucky;

(b) Maintain a personal checking account totally separate from

and independent of that of the inactive person to be used to pay expenses of and deposit income from an owner or client of the inactive person;

(c) Not use the services, directly or indirectly, of current employees of the inactive person; and

(d) Pay bills related to the care, training, and racing of the horse from a separate and independent checking account. Copies of the invoices for the expenses shall be retained for not less than six (6) months after the date of the reinstatement of the license of the inactive person or the expiration of the suspension of the inactive person's license.

Section 8. Other Disciplinary Measures.

(1) A person who violates 810 KAR 8:010, Section 20(2), shall be treated the same as a person who has committed a drug violation of the same class, as determined by the commission after consultation with the Equine Drug Research Council.

(2) A person who violates 810 KAR 8:010, Section 20(3), shall be treated the same as a person who has committed a Class A drug violation.

Section 9. Disciplinary Measures by Stewards or Judges. Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 or ***KAR*** Title 810***[KAR]***, if not otherwise provided for in this administrative regulation, the stewards or judges may impose one (1) or more of the following penalties:

(1) If the violation or attempted violation may affect the health or safety of a horse or race participant, or may affect the outcome of a race, declare a horse or a licensee ineligible to race or disqualify a horse or a licensee in a race;

(2) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years in proportion to the seriousness of the violation and the facts of the case;

(3) Cause a person, licensed or unlicensed, found to have interfered with, or contributed toward the interference of the orderly conduct of a race or race meeting, or person whose presence is found by the stewards or judges to be inconsistent with maintaining the honesty and integrity of the sport of horse racing to be denied access to association grounds or a portion of association grounds; and

(4) Payment of a fine in an amount not to exceed $50,000 as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case.

Section 10. Disciplinary Measures by the Commission.

(1) Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 or KAR Title 810, if not otherwise provided for in this administrative regulation, the commission may impose one (1) or more of the following penalties:

(a) If the violation or attempted violation may affect the health or safety of a horse or race participant or may affect the outcome of a race, declare a horse or a licensed person ineligible to race or disqualify a horse or licensed person in a race;

(b) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years in proportion to the seriousness of the violation;

(c) Cause a person found to have interfered with or contributed toward the interference of the orderly conduct of a race or race meeting, or person whose presence is found by the commission to be inconsistent with maintaining the honesty and integrity of horse racing, to be denied access to association grounds or a portion of association grounds for a length of time the commission deems necessary;

(d) Payment of a fine of up to $50,000 as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case.

(2) Upon appeal of a matter determined by the stewards' or judges the commission may:

(a) Order a hearing de novo of a matter determined by the stewards' or judges; and

(b) Reverse or revise the stewards' or judges' ruling in whole or in part, except as to findings of fact by the stewards' or judges' ruling regarding matters that occurred during or incident to the running of a race and as to the extent of disqualification fixed by the stewards or judges for a foul in a race.***[~~Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:~~***

[~~(a) "Request for Post-race Testing of Claimed Horse", KHRC 8-030-1; and~~

[~~(b) "Claim Blank envelope", 2014.~~

[~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m.~~]

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 8:040. Out-of-competition testing.

RELATES TO: KRS 230.215, 230.225(5), 230.240, 230.260, 230.290, 230.300, 230.310, 230.320, 230.370

STATUTORY AUTHORITY: KRS 230.215(2), 230.240(2), 230.260(11).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which horse racing shall be conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes new sampling and testing procedures for prohibited substances, and establishes penalties for individuals found to be in ***violation of this administrative regulation***.

Section 1. Definitions.

(1) "Endogenous" means a substance that is naturally produced by the healthy body.

(2) "Exogenous" means a substance that is not naturally produced by the healthy body.

(3) "Out of competition testing" means all testing other than:

(a) Pre-race TCO2 testing; and

(b) Post-race testing at a licensed association under the jurisdiction of the commission.

(4) "Sample" means that portion of a specimen subjected to testing by the commission laboratory.

(5) "Sampling" means the act of collecting a specimen from a horse.

(6) "Specimen" means blood, urine, or other biologic matter taken or drawn from a horse for testing.

Section 2. Prohibited Substances and Practices.

(1) All substances identified in this administrative regulation shall be prohibited unless specifically permitted. A positive finding by the commission laboratory of a substance prohibited by this administrative regulation in a specimen taken from a horse designated for testing by a commission veterinarian or his designee shall be prima facie evidence that a violation has occurred. Any reference to substances in this section does not alter the requirements for testing concentrations in race day samples ***established***[~~set forth~~] in 810 KAR***[~~810 KAR~~]*** 8:010 and 810 KAR 8:050.

(2) Any pharmacological substance not addressed by this administrative regulation and without current approval by the U.S.

Food and Drug Administration for human or veterinary use shall be prohibited at all times ***without[absent]*** prior approval of the commission. If a veterinarian seeks approval to use a pharmacological substance not currently approved by the U.S. Food and Drug Administration, the commission or its designee may consult with the Association of Racing Commissioners International, the Racing and Medication Testing Consortium, or their successors to determine whether to authorize use of the substance.

(3) Therapeutic substances not otherwise prohibited by this administrative regulation ***may be used if the[shall be permitted provided such]*** substances:

(a) Are currently approved for human or veterinary use by the U.S. Food and Drug Administration; and

(b) Are prescribed and administered in the context of a valid veterinarian-client-patient relationship.

(4) Compounded medications not otherwise prohibited by this administrative regulation ***may be used if the[shall be permitted provided such]*** medications:

(a) Are permitted by federal law or the law of the state where the horse is located when the compounded medication is administered; and,

(b) Are prescribed and administered in the context of a valid veterinarian-client-patient relationship.

(5)(a) Except as provided in paragraph (b) of this subsection, the following Anabolic Androgenic Steroids (AAS) ***shall be[are]*** prohibited:

1. Exogenous AAS, including: 1-androstenediol (5α-androst-1-ene-3β,17β-diol); 1-androstenedione (5α-androst-1-ene-3,17-dione); bolandiol (estr-4-ene-3β,17β-diol); bolasterone; boldenone; boldione (androsta-1,4-diene-3,17-dione); calusterone; clostebol danazol ([1,2]oxazolo[4',5':2,3]pregna-4-en-20-yn-17α-ol);

dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methylandrosta- 1,4-dien- 3-one); desoxymethyltestosterone (17α-ethyl-5α-androst-2-en-17β-ol); drostanolone; ethylestrenol (19-norpregna-4-en-17α-ol); fluoxymesterone; formebolone; furazabol (17α-methyl[1,2,5]oxadiazolo[3',4':2,3]-5α-androstan-17β-ol); gestrinone; 4- hydroxytestosterone (4,17β-dihydroxyandrost-4-en-3-one); mestanolone; mesterolone; metandienone (17β-hydroxy-17α-methylandrosta-1,4-dien-3- one); metenolone; methandriol; methasterone (17β-hydroxy-2α,17α-dimethyl-5α-androstan-3-one); methyldienolone (17β-hydroxy-17α-methylestra-4,9-dien-3-one); methyl-1-testosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); methylnortestosterone (17β-hydroxy-17α-methylestr-4-en-3-one); methyltestosterone; metribolone (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); mibolerone; nandrolone; 19-norandrostenedione (estr-4-ene-3,17-dione); norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol (17β-[(tetrahydropyran-2-yl) oxy]-1'H pyrazolo[3,4:2,3]-5α- androstane); quinbolone; stanozolol; stenbolone; 1-testosterone (17β hydroxy-5α-androst-1-en-3-one); tetrahydrogestrinone (17-hydroxy-18a- homo-19-nor-17α pregna-4,9,11-trien-3-one); and trenbolone (17β-hydroxyestr-4,9,11-trien-3-one)***; and[.]***

2. Endogenous AAS or their synthetic esters ***if[when]*** administered exogenously: androstenediol (androst-5-ene-3β,17β-diol); androstenedione (androst-4-ene-3,17-dione); dihydrotestosterone (17β-hydroxy-5α-androstan-3-one); prasterone (dehydroepiandrosterone, DHEA, 3β-hydroxyandrost-5-en-17-one); testosterone; and their metabolites and isomers, including but not limited to: 5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; 5β-androstane-3 α, 17β-diol, androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); 5-androstenedione (androst-5- ene-3,17-dione); androsterone (3β-hydroxy-5α -androstan-17-one); epi-dihydrotestosterone; epitestosterone; etiocholanolone; 7α-hydroxy-DHEA; 7β-hydroxy- DHEA; 7-keto-DHEA;19-norandrosterone; 19-noretiocholanolone.

(b) Anabolic steroids may be used out of competition ***if[provided]***:

1. The anabolic steroid is currently approved for human or veterinary use by the U.S. Food and Drug Administration;

2. The administration is:

a. Performed pursuant to a valid veterinary prescription;

b. Entered into the horse's medical record by the administering veterinarian; and

c. Reported by the administering veterinarian to the commission no later than twenty-four (24) hours after administration or dispensing of the medication;

3. The record is made available upon request for inspection by the commission or its designee; and

4. The horse is placed on the Veterinarian's List for six (6) months after the last administration of an anabolic steroid or agent.

(6)(a) Except as provided in paragraph (b) of this subsection, the following anabolic agents shall be prohibited:

1.[1)] Clenbuterol***;***

2.[, 2)] Selective androgen receptor modulators (SARMs)***;***

3.[, 3)] Ractopamine***;***

4.[, 4)] Tibolone***;***

5.[, 5)] Zeranol***;[,]*** and

6.[6)] Zilpaterol.

(b) Clenbuterol may be administered ***if[provided]*** the treatment is:

1. Pursuant to a valid veterinary prescription; and

2. Reported by the administering veterinarian to the commission no later than 24 hours after administration or dispensing of the medication.

(7) The following substances shall be prohibited:

(a) Erythropoiesis-Stimulating Agents (ESAs), including darbepoetin (dEPO); erythropoietins (EPO); EPO-Fc; EPOmimetic peptides (EMP), e.g., CNTO 530 and peginesatide; and methoxypolyethylene glycol-epoetin beta (CERA);

(b) Non-erythropoietic EPO-Receptor agonists, including ARA-290, asialo EPO and carbamylated EPO; and

(c) Hypoxia-inducible factor (HIF) stabilizers, including cobalt (***if[when]*** detected at concentrations in excess the threshold prescribed in 810 KAR 8:010***, Section[Sec.]*** 2(4)(b)), and roxadustat (FG-4592); and HIF activators, (e.g., argon, xenon).

(8)(a) Except as provided in paragraph (b) of this subsection, Chorionic Gonadotropin (CG) and Luteinizing Hormone (LH) and their releasing factors, shall be prohibited in male horses.

(b) Chorionic Gonadatropin (CG) and Luteinizing Hormone (LH) may be used in male horses ***if[provided]***:

1. The treatment is pursuant to a valid veterinary prescription; and

2. The administering veterinarian files a treatment plan with the commission prior to administering the medication.

(9)(a) Except as provided in paragraph (b) of this subsection, Corticotrophin releasing factors and corticotrophin releasing hormones (CCRH) shall be prohibited.

(b) Adrenocorticotrophic Hormone (ACTH) may be used ***if[provided]*** the treatment is:

1. Pursuant to a valid veterinary prescription; and

2. Reported by the administering veterinarian to the commission no later than twenty-four (24) hours after administration or dispensing of the medication by the veterinarian.

(c) Growth Hormone (GH); Growth Hormone Releasing Hormone (GHRH); CJC-1295, sermorelin and tesamorelin; Growth Hormone Secretagogues (GHS); anamorelin; ipamorelin; GH-Releasing Peptides (GHRPs); alexamorelin; GHRP-6; hexarelin; and pralmorelin (GHRP-2) shall be prohibited.

(d) Venoms and toxins from sources, including snails, snakes, frogs, and bees and their synthetic analogues, including ziconotide, shall be prohibited.

(e) Growth factors, including Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Insulin-like Growth Factor-1 (IGF-1) and its analogues, Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF) and any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularization, energy utilization, regenerative capacity or fiber type switching shall be prohibited.

(10) Platelet rich plasma (PRP) and autologous conditioned

plasma (IRAP) may be used ***if the[~~provided such~~]*** treatment is:

(a) Pursuant to a valid veterinary prescription; and

(b) Reported to the commission's representative at the time of sampling if administered within the preceding twenty-four (24) hours.

(11) All beta-2 agonists, including all optical isomers (i.e. *d*- and *l*-) where relevant, shall be prohibited.

(12) Clenbuterol and albuterol ***may be used if[~~are permitted provided~~]*** the treatment is:

(a) Pursuant to a valid veterinary prescription; and

(b) Reported by the administering veterinarian to the commission no later than twenty-four (24) hours after administration or dispensing of the medication by the veterinarian.

(13)***(a) Except as established in paragraphs (b) and (c) of this subsection,*** hormone and metabolic modulators shall be prohibited including:

1.[~~(a)~~] Aromatase inhibitors, including aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone;

2.[~~(b)~~] Selective estrogen receptor modulators (SERMs), including raloxifene, tamoxifen, toremifene;

3.[~~(c)~~] Other anti-estrogenic substances, including clomiphene, cyclofenil, fulvestrant;

4.[~~(d)~~] Agents modifying myostatin function(s), including myostatin inhibitors;

5.[~~(e)~~] Activators of the AMP-activated protein kinase (AMPK), including 5-Aminoimidazole-4-carboxamide ribonucleotide (AICAR); and Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists including GW 1516;

6.[~~(f)~~] Insulins;

7.[~~(g)~~] Trimetazidine; ***and***

8.[~~(h)~~] Thyroxine, and thyroid modulators/hormones including T4 (tetraiodothyronine/thyroxine), T3 (triiodothyronine), or combinations thereof.

(b)[~~(i)~~] Thyroxine (T4) ***may be used[~~is permitted provided that~~]***:

1. The treatment is pursuant to a valid veterinary prescription; and

2. A treatment report is filed in writing or electronically with the commission within twenty-four (24) hours of the administration or dispensing of the medication by the veterinarian.

(c)[~~(j)~~] Altrenogest may be used in fillies and mares ***if the[~~provided that such~~]*** treatment is pursuant to a valid veterinary prescription. Altrenogest ***may be used[~~is permitted~~]*** is permitted in intact males ***if[~~provided~~]*** the treatment is:

1. Pursuant to a valid veterinary prescription; and

2. The administering veterinarian files a treatment plan with the commission prior to administering the medication.

(18)(a) Except as provided in paragraphs (b) and (c) of this subsection, diuretics shall be prohibited, including acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, ethacrynic acid, indapamide, metolazone, spironolactone, thiazides including bendroflumethiazide, chlorothiazide, hydrochlorothiazide, torsemide, triamterene, vasopressin receptor antagonists or vaptans, including tolvaptan.

(b) Furosemide and trichlormethiazide may be used out of competition ***if[~~provided~~]*** the treatment is:

1. Pursuant to a valid veterinary prescription; and

2. Reported at the time of sampling if administered within the preceding twenty-four (24) hours.

(c) Other diuretics, including those ***established[~~set forth~~]*** in paragraph (a) above, may be administered in an emergency ***if[~~provided~~]*** the treatment is:

1. Pursuant to a valid veterinary prescription; ***and***

2. Reported to the commission within twenty-four (24) hours of administration.

(19) Masking agents, including desmopressin, plasma expanders (including glycerol; intravenous administration of albumin, dextran, and hydroxyethyl starch), and probenecid, shall be prohibited.

(20) The administration or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood or red blood cell products of any origin into the circulatory system shall be prohibited.

(21) Artificially enhancing the uptake, transport or delivery of oxygen, with perfluorochemicals, efaproxiral (RSR13), hemoglobin products, hemoglobin-based blood substitutes, and microencapsulated hemoglobin products (excluding supplemental oxygen) shall be prohibited.

(22)(a) Except as provided in paragraph (b) of this subsection, any form of intravascular manipulation of the blood or blood components by physical or chemical means shall be prohibited.

(b) The use of a hyperbaric oxygen chamber shall not be a violation of this administrative regulation.

(23) Polymers of nucleic acids or nucleic acid analogues shall not be transferred unless prior approval is requested and received from the commission or its designee.

(24) The use of normal or genetically modified hematopoietic cells shall be prohibited.

(25) Mesenchymal stem cells may be used for treatment of musculo-skeletal disorders, ***if the[~~provided that such~~]*** treatment is:

1. Entered by the veterinarian in the horse's medical record, which record shall be made available to a designee of the commission upon request;

2. Pursuant to a valid veterinary prescription; and

3. Reported to the commission's representative at the time of sampling.

Section 3. Out-of-Competition Testing.

(1) Any horse eligible to race in Kentucky shall be subject to testing without advance notice for the substances specified in Section 2 of this administrative regulation. A horse ***shall be[~~is~~]*** presumed eligible to race in Kentucky if:

(a) It is under the care, custody, or control of a trainer licensed by the commission;

(b) It is owned by an owner licensed by the commission;

(c) It is nominated to a race at an association licensed pursuant to KRS 230.300;

(d) It has raced at an association licensed pursuant to KRS 230.300 within the previous twelve (12) calendar months;

(e) It is stabled on the grounds of an association licensed pursuant to KRS 230.300 or a training facility subject to the jurisdiction of the commission; or

(f) It is nominated to participate in the Kentucky Thoroughbred Development Fund, the Kentucky Standardbred Development Fund, or the Kentucky quarter horse, paint horse, Appaloosa and Arabian Development Fund.

(2) A horse subject to testing under subsection (1) of this section may be designated for testing by the executive director, the chief state steward, chief judge, or their respective designee.

(3) An owner, trainer, or any authorized designee shall fully cooperate with the commission veterinarian, or his or her designee, by:

(a) Locating and identifying any horse designated for out-of-competition testing;

(b) Making the horse available for the collection of the specimen at a place designated by the commission veterinarian, or his or her designee; and

(c) Observing the collection of the specimen.

1. If the owner, trainer or their authorized designee, is not available to observe the collection of the specimen, the collection shall be deferred until the trainer, owner, or their authorized designee, becomes reasonably available, but the collection shall occur no later than six (6) hours after notice of intent to collect a specimen from a horse is issued by the commission veterinarian or his or her designee.

2. If the collection does not occur within the time provided for in this subsection, any horse that is designated for testing may be barred from racing in Kentucky and placed on the veterinarian's list, pursuant to 810 KAR 8:010, Section 17, and the steward's list or judges' list, for a period of 180 days and the owner and trainer of the horse may be subject to the penalties described in Section 8 of this administrative regulation.

(4) Responsible persons.

(a) The trainer of the horse shall be responsible for the condition of a horse sampled for an out-of-competition test while on the grounds of a licensed training facility or racetrack.

(b) If the horse is sampled while not on the grounds of a licensed training facility or racetrack, the owner shall be presumed to be the responsible person unless the owner can establish, by substantial evidence, that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making ***that[~~such~~]*** person the responsible person.

(c) If a horse sampled for an out-of-competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time ***the[~~such~~]*** substance may have been administered.

(d) If the commission cannot determine a responsible person, then the commission may deem the owner responsible and may place the horse on the veterinarian's list for ***as long[~~such time~~]*** as is necessary to protect the integrity of racing.

(e) If a horse designated for testing is sampled at a location not under the jurisdiction of the commission, the trainer or his designee may declare at the time of sampling any reportable substances that have been administered to the horse but have not previously been disclosed to the commission.

Section 4. Specimen Collection.

(1) A specimen shall be collected from any horse designated by the executive director, the chief state steward, the presiding judge, or their designee, whether the horse is located in Kentucky or in another jurisdiction.

(2) If a designated horse is located in another jurisdiction, the executive director or commission veterinarian may select a veterinarian from that jurisdiction's racing commission or regulatory entity to collect the specimen.

(3) At a licensed association or training facility under the jurisdiction of the commission, the commission veterinarian, or his or her designee, may collect a specimen from a horse designated for testing at any time.

(4) At a location other than the grounds of a licensed association or a training facility under the jurisdiction of the commission, the commission veterinarian, or his or her designee, shall collect the specimen between the hours of 7 a.m. and 6 p.m., prevailing time, and shall notify orally or in writing the owner, trainer, or their designee before arriving to collect the specimen.

(5) A licensed association or training facility under the jurisdiction of the commission at which a horse designated for testing is located shall cooperate fully in the collection of the specimen.

Section 5. Minimum and split samples. The commission veterinarian, in consultation with the official laboratory, shall determine minimum and split sample requirements as ***established[~~set forth~~]*** at 810 KAR 8:010, Section 11.

Section 6. Sample Storage and Testing.

(1) Any out of competition sample collected pursuant to this administrative regulation shall be stored in a temperature controlled unit at a secure location chosen by the commission until the sample is submitted for testing. The samples shall be secured under conditions established by the commission veterinarian in accordance with 810 KAR 8:010, Section 11.

(2) The commission is the owner of an out of competition specimen.

(3) A trainer or owner of a horse receiving notice of a report of finding from the commission may request that a split sample corresponding to the portion of the sample tested by the commission laboratory be sent to a split sample laboratory which has documented its proficiency in detecting the substance associated with the report of finding and has been approved by the commission.

(4) Split samples shall be subject to 810 KAR 8:010, Section 11, and the chain of custody of any split sample shall be maintained in accordance with 810 KAR 8:010, Section 12.

(5) The cost of testing a ***split sample***, including shipping, shall be borne by the owner or trainer requesting the test.

Section 7. Notice of Violation and Hearing. Within five (5) business days of receipt by the stewards or judges of notification of a violation of this administrative regulation, the stewards or judges shall notify the owner and trainer orally or in writing of the violation and shall schedule a stewards' or judges' hearing within fourteen (14) calendar days of notification by the stewards or judges to the owner and trainer. The hearing may be continued if the stewards or judges determine a continuation is necessary to accommodate the parties.

Section 8. Penalty. A trainer, owner, responsible person, or any other individual who violates this administrative regulation shall be subject to the following penalties:

(1) A positive finding of a substance prohibited by this administrative regulation shall be subject to the penalties for that substance ***established[~~set forth~~]*** in 810 KAR 8:010, 810 KAR 8:020, and 810 KAR 8:030.

(2) If the owner, trainer, or any authorized designee fails to cooperate or otherwise prevents a horse from being tested, the horse designated for testing shall be barred from racing in Kentucky and placed on the veterinarian's list, pursuant to 810 KAR 8:010, Section 17, and the steward's list or judges' list, for 180 days, and the individual or individuals responsible for the failure to cooperate or prevention of the horse from being tested shall be subject to the penalties ***established in subsection (4) of this section[~~described in Section 8 of this administrative regulation~~]***.

(3) A horse that is barred from racing in Kentucky and placed on the Veterinarian's List and the steward's list, or judges' list pursuant to subsection (4)(c)***[~~(2)~~]*** or subsection (5) of this section shall remain barred from racing and shall remain on the veterinarian's list and the steward's list or judge's list:

(a) Upon sale or transfer of the horse to another owner or trainer until the expiration of 180 days; and

(b) Until the horse is determined by the commission to test negative for any substance prohibited by this administrative regulation and is approved for racing by the commission veterinarian and the chief state steward or presiding judge.

(4)***(a)*** Willful failure to make a horse available for sampling, tampering with or attempting to tamper in order to alter the integrity and validity of a sample, including urine substitution or adulteration, or any other deceptive acts or interference in the sampling process, shall be penalized as follows:

1.[~~(a)~~] For a first offense, a Class A penalty as ***established[~~set forth~~]*** in 810 KAR 8:030***; or[~~.~~]***

2.[~~(b)~~] For a second offense, permanent license revocation.

(b)[~~(c)~~] A horse that is not produced for out of competition testing shall be placed on the Veterinarian's List for a minimum of 180 days.

(5) Failure to report treatment as required by this administrative regulation ***shall be penalized as follows***:

(a) For a first offense, a warning***; or[~~.~~]***

(b) For a second or subsequent offense, a Class D penalty as ***established[~~set forth~~]*** in 810 KAR 8:030.

(6) Upon finding a violation of this administrative regulation, the horse in which the presence of a substance described in Section 2 of this administrative regulation was detected shall be barred from racing in Kentucky and placed on the veterinarian's list pursuant to 810 KAR 8:010, Section 17, and the stewards' or judges' list, for a period of up to 180 days and shall remain barred from racing in Kentucky until the horse is determined by the commission to test negative for any substance described in Section 2 of this administrative regulation and is approved for racing by the commission veterinarian and the chief state steward or presiding judge.

(7) Upon finding a violation of this administrative regulation, the horse in which the presence of a substance described in Section 2 of this administrative regulation was detected ***shall remain[~~remains~~]*** subject to the requirements of subsection (4) of

this section:

(a) Upon sale or transfer of the horse to another owner or trainer before the expiration of 180 days; and

(b) Until the horse is determined by the commission to test negative for any substance described in Section 2 of this administrative regulation and is approved for racing by the commission veterinarian and the chief state steward or presiding judge.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 8:060 Post-race Sampling and Testing Procedures.

RELATES TO: 230.215, 230.240, 230.260, 230.265(2), 230.290(2), 230.320(1)

STATUTORY AUTHORITY: KRS 230.215***(2)***, 230.240***(2)***

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes requirements and controls in post-race sampling and testing to ensure that prohibited substances are not used.

Section 1. Test Barn. In addition to the procedures ***established[~~set forth~~]*** in 810 KAR 8:010, Section 10, the commission shall require the following procedures:

(1) A security guard employed by a licensed association shall regulate access to the test barn during and immediately following each race; and

(2) All individuals who wish to enter the test barn shall be:

(a) Currently licensed by the commission;

(b) Display their commission identification badge; and

(c) Have the permission of the commission veterinarian or his or her designee to be in the test barn.

Section 2. Race Classifications for Sampling.

(1) For races with purses of $2,500 or less:

(a) The horse finishing first shall be sampled and a portion of the specimen shall be designated as a gold sample; and

(b) The chief state steward, presiding judge, or his or her designee, may select one or more other horses to be sampled and shall designate a portion of each specimen as a red sample or a gold sample in accordance with Section 4 of this administrative regulation.

(2) For races with purses that exceed $2,500 but are less than $100,000:

(a) The horse finishing first and at least one (1) other horse shall be sampled;

(b) The chief state steward, presiding judge, or his or her designee, shall designate a portion of each specimen as a red sample or a gold sample in accordance with Section 4 of this administrative regulation; and

(c) A portion of at least one (1) specimen from each race shall be designated as a gold sample.

(3) For races with purses of $100,000 or more:

(a) The horses finishing first, second, and third shall be sampled;

(b) The chief state steward, presiding judge, or his or her designee, may select one or more other horses to be sampled and shall designate a portion of each specimen as a red sample or a gold sample in accordance with Section 4 of this administrative regulation; and

(c) Portions of at least three (3) specimens shall be designated as gold samples.

Section 3. Selection of Horses and Designation of Samples.

(1) In selecting horses for sampling and designating portions of specimens as gold samples or red samples, the chief state steward, presiding judge, or his or her designee, shall consider all information available, including:

(a) The performance of a horse favored to win the race by the wagering patrons;

(b) The performance of horses considered to be long-shots to win the race by the wagering patrons;

(c) The betting patterns of wagering patrons;

(d) A trainer's recent statistical performance in relation to his or her historical statistical performance; and

(e) Security intelligence.

(2) The chief state steward, presiding judge, or his or her designee shall notify the test barn promptly upon completion of a race as to which horse or horses shall be sampled***.[;]***

(3) Prior to the close of business on the date of sampling, the chief state steward, presiding judge, or his or her designee shall notify the test barn in writing regarding which samples are designated as gold samples and which samples are designated as red samples.

Section 4. Sampling.

(1) A horse designated for sampling by the stewards or judges shall proceed immediately to the test barn following each race to have a specimen collected under the direction of the commission veterinarian.

(2) If an adequate specimen cannot be obtained from a horse designated for sampling within sixty (60) minutes after arrival at the testing barn, the commission veterinarian may require an individual employed by the commission to accompany the horse from the test barn to its stall and remain with the horse until an adequate specimen is obtained.

(3) All sampling shall be performed in accordance with 810 KAR 8:010, Section 11.

(4) Split samples shall be subject to the provisions and procedures ***established[~~set forth~~]*** in 810 KAR 8:010, Section 12, and the chain of custody of any split sample shall be maintained in accordance with the procedures ***established[~~set forth~~]*** in 810 KAR 8:010, Section 13.

Section 5. Shipment and Testing.

(1) All gold samples and red samples shall be labeled and sent to the commission laboratory for testing in accordance with the procedures ***established[~~set forth~~]*** in 810 KAR 8:010, Section 11.

(2) A technician at the commission laboratory shall create a log of each sample received and enter the color code into the Laboratory Information Management System or other information management system approved by the commission.

(3) All gold samples shall be tested.

(4) Fifty (50) percent of all red samples shall be randomly selected by the Lab Information Management System, or other information management system approved by the commission, and tested.

(5) All red samples that are not selected for testing shall be frozen or refrigerated and retained pursuant to a contract between the commission and the commission laboratory.

(6) If a sample tests positive for a prohibited substance by 810 KAR Chapter 8, all specimen or specimens collected from horses who competed in the same race shall be tested.

(7) All testing and reports shall be completed in accordance with 810 KAR 8:010 and 810 KAR 8:030.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
FILED WITH LRC: November 15, 2018 at 9 a.m.
CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 9, 2019)

810 KAR 9:010. Hearings, reviews, and appeals.

RELATES TO: KRS 230.215(2), 230.310(2), 230.320, 230.330
STATUTORY AUTHORITY: KRS 230.215(2), 230.320, 230.370
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215 vests the Kentucky Horse Racing Commission with plenary power to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. KRS 230.320(1) authorizes the commission to promulgate administrative regulations under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse. KRS 230.320(3) requires the commission to grant an appeal and administrative hearing in accordance with KRS Chapter 13B to any person whose license is denied, suspended, or revoked or who is assessed an administrative fine or required to return a purse. KRS 230.320(5) authorizes the commission to determine that certain appeals are frivolous and requires prescription of the factors leading to such a determination. KRS 230.370 authorizes the commission to promulgate any reasonable and necessary administrative regulation for the conduct of hearings before it. ***This administrative regulation establishes the procedures for administrative hearings and appeals held pursuant to KRS Chapter 230 and establishes parameters for frivolous appeals.***

Section 1. Stewards' and Judges' Hearings.
(1) A stewards' or judge's hearing, as applicable, shall be conducted by a state steward or a state judge unless waived in writing by the party charged with the violation.
(2) At least two (2) stewards or judges must be present at all times during the hearing. All three (3) stewards or judges shall review the evidence and testimony prior to issuing a ruling. A ruling shall be made by all three (3) stewards or judges sitting in the matter.
(3) A party charged with a violation other than a routine riding offense occurring in a race shall be given written notice of the stewards' or judges' hearing, unless waived in writing by the party charged.
(4)***[All]*** Stewards' and judges' hearings shall be closed, and the stewards and judges shall make no public announcement concerning a matter under investigation until the conclusion of the hearing.
(5) A state steward or a state judge shall conduct the hearing in such a manner as to ascertain and determine the substantial rights of the parties involved and shall not be bound by technical rules of procedure and evidence.
(6)***[All]*** Testimony shall be given under oath and a record shall be kept***[, either]*** by use of an audio recorder or by court reporter's transcript. The party charged with the violation may, however, waive the recording and the transcription of the testimony. The stewards or judges shall not be required to receive testimony in cases where their ruling is based solely upon a review of the ***race replay[video replay of a race]***.
(7) If, after the hearing, the stewards or judges find that a statute or an administrative regulation has been violated, they shall promptly issue a written ruling setting forth the:
(a) Full name of every person charged with the violation;
(b) Identification of licensees charged with the violation;
(c) Statute or administrative regulation number and pertinent parts of the statute or administrative regulation violated;
(d) Findings; and
(e) Penalty.
(8) Copies of the ruling shall be delivered to:
(a) Each party in interest;
(b) The commission; and
(c) The office of the Association of Racing Commissioners International, and in Standardbred racing, to the United States Trotting Association.
(9) ***A[Any]*** party who is the subject of ***an[any]*** order or ruling of the stewards or judges may apply for a commission hearing pursuant to KRS Chapter 13B, except as to:
(a) Determinations of whether***[or not]*** a horse or horses in a race shall be disqualified for fouls committed during the race; or
(b) Findings of fact as to***[all]*** matters occurring during and incident to the running of a race.
(10) An application to the commission for review of a stewards' or judges' order or ruling shall be made within ten (10) days after the order or ruling is issued in writing on the "Notice of Appeal," KHRC 9-010-1.
(11) An application to the executive director for a stay of a stewards' or judges' order or ruling shall be made in writing within ten (10) days after the order or ruling is issued on the "Request for Stay Pending Appeal", KHRC 9-010-2.

Section 2. Frivolous Appeals. The commission may determine that an appeal of a stewards' or judges' order or ruling, or any other administrative appeal to the racing commission by a licensee or other person participating in Kentucky horse racing, is frivolous. An appeal shall be presumed to be frivolous if:
(1) The applicant seeks review by the commission but fails, without good cause, to appear for proceedings;
(2) The applicant attends the commission hearing but fails, without good cause, to offer evidence to support the application for review; or
(3) The appeal is totally lacking in merit such that it appears to have been taken in bad faith.

Section 3. Commission Hearings.
(1) Except where precluded by another provision of KRS Chapter 230 or this administrative regulation, commission hearings shall be conducted in accordance with KRS Chapter 13B.
(2) Copies of***[all]*** final commission orders or rulings related to licensing of individuals shall be forwarded to the office of the Association of Racing Commissioners International, and, in standardbred racing, to the United States Trotting Association.

Section 4. Appeal from Commission Order. ***A[Any]*** person or licensee aggrieved by ***an[any]*** order or decision of the commission may appeal to the Franklin Circuit Court in accordance with KRS 230.330.

Section 5. Incorporation by Reference.
(1) The following material is incorporated by reference:
(a) The "Notice of Appeal", KHRC 9-010-1, **11/2018**; and
(b) The "Request for Stay Pending Appeal", KHRC 9-010-2, **11/2018**.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the KHRC Web site at http://khrc.ky.gov.

FRANKLIN S. KLING, JR., Chairman
K. GAIL RUSSELL, Acting Secretary
APPROVED BY AGENCY: November 13, 2018
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CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health
(As Amended at ARRS, April 9, 2019)

902 KAR 19:010. Kentucky Birth Surveillance Registry.

RELATES TO: KRS 194A.050, 211.180, 211.651, 211.655, 211.660, 211.670, Chapter 216B

STATUTORY AUTHORITY: KRS 194A.050(1), 211.660(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) ***requires[~~authorizes~~]*** 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 211.660(1) requires the department to establish the Kentucky Birth Surveillance Registry based on the need to provide information on the incidence, prevalence, and trends of congenital anomalies, stillbirths and high risk conditions; provide information as to possible causes; and develop preventive strategies to reduce their incidence and the secondary complications associated with them. ***KRS 211.660(6) authorizes the department to implement the provisions of KRS 211.651 to 211.670 through the promulgation of administrative regulations.*** This administrative regulation establishes uniform procedures for collection of data for the registry.

Section 1. Definitions. (1) "Agent" means an entity with which the department may:

(a) Contract pursuant to carrying out the duties of the registry; and

(b) Designate to act on the behalf of the registry to edit or analyze data from hospitals.

(2) "Cabinet" is defined by KRS 211.651(1)[~~means the Cabinet for Health Services~~].

(3) "Coding and transmission specifications"[~~or "UB-92 Submission Manual"~~] means the required data elements and codes to be included on the UB-04 CMS 1450 Form***[, revised 03-01-2007]***[~~technical directives the cabinet issues concerning technical matters subject to frequent change, including codes and data for uniform provider entry into particular character positions and fields of the UB-92 and uniform provider formatting of fields and character positions for purposes of electronic data transmissions pursuant to 902 KAR 17:040 or, where not specified, as are delineated in the UB-92 Training Manual~~].

(4) "Department" is defined by KRS 211.651(3)[~~means the Department for Public Health~~].

(5) "Free-standing birthing center" means a non-hospital affiliated alternative birthing center licensed under the provisions of KRS Chapter 216B[~~"Division" means the Division of Adult and Child Health, which is the administrator of the Kentucky Birth Surveillance Registry, and is located within the Department for Public Health~~].

(6) "Hospital" means an acute care hospital licensed under the provisions of KRS Chapter 216B.

(7) "Hospitalization" means the inpatient medical episode identified by a patient's birth, admission date, length of stay and discharge date, and further identified by a provider-assigned patient control number unique to that inpatient episode.

(8) "ICD-10 Code" means the International Classification of Diseases, Tenth Revision, Clinical Modification system used by physicians and other health care providers to classify and code all diagnoses, symptoms and procedures recorded in conjunction with hospital care.

(9)[~~(8)~~] "Laboratory" means a medical laboratory licensed under KRS Chapter 333.[~~(9) "ICD-9 Code" means the diagnosis code specifications under the International Classification of Diseases, in current usage, required for reporting diagnoses and diseases to all U.S. Public Health Service and Health Care Financing Administration programs.~~]

(10) "Medical record" means the patient's actual medical record maintained by a hospital's or free-standing birth center's[~~the hospital's~~] medical record department or by a laboratory.

(11) "Record" means documentation in UB-04 data[~~UB-92~~] format, in paper or electronic submission[~~form~~], of:

(a) A hospitalization;

(b) An outpatient visit; or

(c) A laboratory result.

(12) "Registry" means the Kentucky Birth Surveillance Registry.

(13) "UB-04 data" means the standard claim format used by birthing centers, hospitals and laboratory providers to transmit a healthcare claim["~~UB-92" means the billing form identified by the Federal Health Care Financing Administration as HCFA Form 1450, as recommended by the National Uniform Billing Committee and adopted by the Kentucky Uniform Billing Committee for use by hospitals and other providers in billing for hospitalizations~~].

Section 2. Data Collection. (1) Hospitalization records. A hospital shall document, in the UB-04 data format[~~on a UB-92 record~~], each inpatient hospitalization[~~it provides for an inpatient~~] of a child up to age five (5) years[~~or under~~] who is diagnosed with a congenital birth anomaly or high-risk condition, as defined by the department in accordance with KRS 211.660(2), and included in Section 5[~~7~~] of this administration regulation. Each hospital shall provide to the registry the data specified in Section 6[~~8~~] of this administrative regulation.

(2) Outpatient and laboratory records.

(a) In accordance with KRS 211.660(3)(b), a laboratory shall maintain medical records for each child up to the age of[~~person tested who is~~] five (5) years[~~of age or younger and~~] who has a primary diagnosis or laboratory test result indicating a congenital anomaly or high-risk condition, as defined by the department and included in Section 5[~~7~~] of this administrative regulation.

(b) A laboratory, and a hospital voluntarily maintaining an outpatient list as described at KRS 211.660(3)(a), shall provide the data specified in Section 6[~~8~~] of this administrative regulation.

(3) Access to medical records. A hospital, free-standing birthing center, or laboratory[~~reporting entity~~] shall provide an[~~a requesting~~] agent of the department[~~registry with~~] access to the medical record of:

(a) Patients meeting the criteria in subsections (1) or (2) of this section;

(b) An infant who dies before his or her first birthday;

(c) Any stillborn child; and

(d) Maternal prenatal medical records for a patient meeting the criteria in:

1. Subsections (1) or (2) of this section; and

2. Paragraphs (b) and (c) of this subsection.

(4) Maternal prenatal medical records shall be used to assist in determining the possible causes of congenital anomalies, stillbirths, and high risk conditions, and aid in the development of prevention strategies to reduce their incidence as authorized by KRS 211.655[~~any patient meeting the criteria in subsections (1) or (2) of this section, as authorized by KRS 211.660(4)~~].

Section 3. Data Finalization and Submission. (1) Submission of final data. Data shall be***[deemed]*** final for purposes of submission to the registry as soon as a record is sufficiently final that the provider could submit it to a payor for billing purposes, whether or not the record has actually been submitted to a payor.

(a) Finalized data shall not be withheld from submission to the registry on grounds that it remains subject to adjudication by a payor; and

(b) Data on a hospitalization shall not be submitted to the registry before the patient is discharged[~~:~~

~~1. The patient is discharged; or~~

~~2. The record is sufficiently final that it could be submitted to a payor for billing~~].

(2) Data editing.

(a) If the registry identifies a record as incomplete or invalid, the submitting hospital shall submit a corrected copy within thirty (30) days of notification.

(b) The date of notification shall be the date postmarked on the registry's mailed notice of required correction.

(c) Resubmission shall be by either electronic transmission or mailing.

(3) Transmission of records.

(a) Data submitted to the registry shall be uniformly completed and formatted according to coding and transmission specifications;

(b) Hospitals, free-standing birthing centers, and laboratories that

have the capacity shall submit data on computer-readable electronic media;

(c) Hospitals, free-standing birthing centers, and laboratories shall provide backup security against accidental erasure or loss of the data until any incomplete or inaccurate records identified by the registry have been corrected and resubmitted; ***and***

(d) Data submitted by mail shall be by certified mail or other traceable carrier, such as United Parcel Service,[;] and be postmarked on or before the due date[~~(e) A hospital or laboratory that submits records in the form of paper copies shall either deliver the copies to the registry's reporting agent, or send them in secure packaging by mail postmarked on or before the due date~~].

Section 4. Data Submission Timetable. Quarterly submission. A hospital, free-standing birthing center, or laboratory shall submit data at least once for each calendar quarter. A quarterly submission shall contain data from records of patients which became final during that quarter, as specified in Section 3(1) of this administrative regulation. The data shall be submitted to the registry not later than forty-five (45) days after the last day of that quarter. (1) If the 45th day falls on a weekend or holiday, the submission due date shall become the next following working day.

(2) Outpatient data[~~and laboratory reports~~] shall be submitted directly to the registry[~~KBSR~~] within thirty (30) days of the written request.

(3) A hospital, free-standing birthing center, or laboratory shall, within thirty (30) days of receipt of a written request from the registry, submit a medical records report for specified ICD-10[~~ICD-9~~] codes for a designated quarter.

Section 5.[~~Data Corrections. (1) Editing. The following UB-92 data fields from Section 9 of this administrative regulation shall be edited by the registry upon receipt, in order to ensure completeness and validity of the data for further processing: patient name, insured's name.~~

~~(2) If the registry identifies a record as incomplete or invalid, the submitting hospital shall submit a corrected copy within thirty (30) days of notification. Date of notification shall be considered to be the date postmarked on the registry's mailed notice of required correction. Submission shall be by either electronic transmission or mailing.~~

~~Section 6. Working Contacts. (1) Beginning January 1, 1996 and annually thereafter, each hospital required to submit data shall report, by letter to the registry, the names and telephone numbers of a chief executive officer shall not be designated as a contact or backup, unless no other employee has the required technical expertise.~~

~~(2) If the chief executive officer, designated contact person or back-up person changes during the year, the name of the replacing person shall be reported immediately to the registry.~~

~~Section 7.~~] Required Reporting Conditions. Hospitals, free-standing birthing centers, and laboratories shall submit to the registry the following information with respect to all patients up to the age of five (5) years, diagnosed with the following ICD-10 codes:

(1) All congenital anomalies codes Q00-Q99, and all subcategories;

(2) Metabolic storage disorder codes D80-D82, E70-E72, E74-E83, E88, and all subcategories;

(3) Teratogens (noxious influences) codes P04.0-P04.9, and all subcategories;

(4) Zika virus disease code A92.5; and

(5) Any additional condition***[deemed]*** necessary for public health surveillance.[~~The data which are submitted from the hospital to the registry shall be at least for those patients, from birth to five (5) years of age, for whom any reported diagnoses includes the following ICD-9 codes:~~

~~(1) All congenital anomalies codes - 740-759. (Examples: microcephaly 742.1; macrocephaly 742.4; upper GI anomalies 750; lower GI anomalies 751; gastroschisis/omphalocele 756.7; chromosome anomalies 758.)~~

~~(2) Dwarfism not elsewhere classified - 259.4.~~

~~(3) Metabolic/storage disorders - 270-279, Excluding codes 274, 276 and 278.~~

~~(4) Hereditary hemolytic anemia - 282.~~

~~(5) Neurologic disorders of brain and spinal cord - 334-335.~~

~~(6) Cerebral palsy - 343.~~

~~(7) Teratogens (noxious influences) - 760.7 and all subcategories, from 760.70 to 760.79.~~

~~(8) Infant of diabetic mother - 775.0.~~

~~(9) Failure to thrive - 783.4.~~

~~(10) Small for gestational age - 764.0.~~]

Section 6[~~8~~]. Required Data Elements. (1) UB-04[~~UB-92~~] data. Hospitals and free-standing birthing centers shall ensure that each copy of UB-04[~~UB-92~~] data submitted to the registry contains[~~at least~~] the following data elements:

UB-04 data FIELD #	ELEMENT NAME
8	Patient Name
9	Patient Address
10	Birth Date
11	Sex
12	Admission Date
50	Payer Name
58	Insured's Name
59	Patient Relationship (P. REL)
60	Insured's Unique ID
66	Diagnosis Codes
67	Principle Diagnosis Code
76	Attending Physician National Provider Identifier

[~~as provided on the UB-92 form. Asterisks identify elements that shall not be blank and shall conform to coding and transmission specifications.~~

~~UB-92 FIELD #~~	~~ELEMENT NAME~~
~~*5~~	~~Federal Tax Number~~
~~*12~~	~~Patient Name~~
~~13~~	~~Patient Address~~
~~*14~~	~~Birth Date~~
~~*15~~	~~Sex~~
~~*17~~	~~Admission/Start of Care Date~~
~~*23~~	~~Medical Record #~~
~~*58~~	~~Insured's Name~~
~~59~~	~~Patient Relationship~~
~~60~~	~~Certificate/SSN/Health Insurance Claim/ID Number~~
~~*67~~	~~Principal Diagnosis Code~~
~~68-75~~	~~Other Diagnosis Codes (Up to 8)~~
~~*82~~	~~Attending Physician Unique Identification Number or Alternate Number~~

] (2) Outpatient and laboratory data. A laboratory and a hospital voluntarily maintaining a list of outpatients, in accordance with KRS 211.660(3)(a), shall ensure that the data submitted to the registry includes the following data elements: patient name, patient address, birth date, sex, principal diagnosis, other diagnoses[~~(up to eight (8))~~], and reporting source.

Section 7[~~9~~]. Incorporation by Reference. (1) "UB-04 CMS 1450 Form", 03-01-2007,["~~UB-92 Training Manual (August 4, 1993)~~"] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Birth Surveillance Registry, Division of Maternal[~~Adult~~] and Child Health, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: February 11, 2019

FILED WITH LRC: February 14, 2019 at 3 p.m.

CONTACT PERSON: Chase Coffey, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Fiscal Management
(As Amended at ARRS, April 9, 2019)

907 KAR 10:820. Disproportionate share hospital distributions.

RELATES TO: KRS 205.565, 205.637, 205.639, 205.640, ***[205.641,]*** 216.380, 42 C.F.R. Parts 412, 413, 440.10, 440.140, 447.250-447.280, 42 U.S.C. 1395f(l), 1395ww(d)(5)(f), 1395x(mm), 1396a, 1396b, 1396d, 1396r-4

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(2), 205.637(3), 205.639, 205.640, 205.6401, 205.6403, 216.380(12), 42 C.F.R. Parts 412, 413, 447.252, 447.253, 447, Subpart E, 42 U.S.C. 1395ww(d)(5)(F), 1396a, 1396r-4

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 for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes disproportionate share hospital fund distribution provisions in accordance with KRS 205.639, [~~and~~] 205.640, 205.6401, and 205.6403.

Section 1. Definitions. (1) "Base year" means the year of historical Medicaid DSH survey data used to determine initial DSH payments[~~"Acute care hospital" is defined by KRS 205.639(1)~~].

(2)[~~"Countable resource" means cash or an asset readily convertible to cash including a checking account, savings account, stock, bond, mutual fund, certificate of deposit, money market account, or similar financial instrument.~~

~~(3) "Critical access hospital" or "CAH" means a hospital meeting the licensure requirements established in 906 KAR 1:110.~~

~~(4)~~] "Department" is defined by KRS 205.639(4)[~~means the Department for Medicaid Services or its designated agent~~].

(3)[~~(5)~~] "Disproportionate share hospital" or "DSH" means an in-state hospital that:

(a) Has ***a[an inpatient]*** Medicaid ***inpatient*** utilization rate of one (1) percent or higher; and

(b) Meets the criteria established in 42 U.S.C. 1396r-4(d).

(4) "Final disproportionate share hospital payment" or "final DSH payment" is defined by KRS 205.639(6).

(5) "Hospital-specific disproportionate share hospital limit" or "hospital-specific DSH limit" is defined by KRS 205.639(7).

(6) "Initial disproportionate share hospital payment" or "initial DSH payment" is defined by KRS 205.639(8).

(7) "Medicaid disproportionate share hospital survey" or "Medicaid DSH survey" is defined by KRS 205.639(12)**, and may include an attestation by a hospital that information has not changed from the submission of an original Medicaid DSH survey.**

(8) "Medicaid inpatient utilization rate" or "MIUR" is defined by KRS 205.639(14).

(9) "Total uncompensated care costs" is defined by KRS 205.639(19).[~~(6) "DRG" or "diagnosis related group" means a clinically-similar grouping of services that can be expected to consume similar amounts of hospital resources.~~

~~(7) "DRG-reimbursed hospital" means an in-state hospital reimbursed via a DRG methodology pursuant to 907 KAR 10:825.~~

~~(8) "Federal Register" means the official daily publication for rules, proposed rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.~~

~~(9) "Indigent care" means the unreimbursed cost to a hospital of providing a service on an inpatient or outpatient basis:~~

~~(a) To an individual who is:~~

~~1. Determined to be indigent in accordance with KRS 205.640; and~~

~~2. Not a Medicaid recipient; and~~

~~(b) For which an individual shall not be billed by the hospital.~~

~~(10) "Indigent care eligibility criteria" means the criteria as specified in Section 9 of this administrative regulation used by a hospital to determine if an individual is eligible for indigent care.~~

~~(11) "Inpatient equivalency" means the equivalency that is:~~

~~(a) Determined by taking a hospital's aggregate Medicaid DRG reimbursement, dividing it by the aggregate Medicaid DRG allowed days, and determining a per diem amount paid; and~~

~~(b) Based on the Medicaid schedule contained in the most recently finalized Medicare cost report.~~

~~(12) "Long-term acute care hospital" means a hospital that meets the requirements established in 42 C.F.R. 412.23(e).~~

~~(13) "Per diem rate" means a hospital's all-inclusive daily rate as calculated by the department.~~

~~(14) "Private psychiatric hospital" is defined by KRS 205.639(2).~~

~~(15) "Pro rata basis" means a basis for allocating an amount proportionately to all hospitals within a hospital category.~~

~~(16) "Rehabilitation hospital" means a hospital meeting the licensure requirements as established in 902 KAR 20:240.~~

~~(17) "Resident" means an individual living in Kentucky who is not receiving public assistance in another state.~~

~~(18) "State mental hospital" is defined by KRS 205.639(3).~~

~~(19) "Third-party payor" means a payor of a third party pursuant to KRS 205.510(16).~~

~~(20) "University hospital" is defined by KRS 205.639(4).~~]

Section 2. Disproportionate Share Hospital Distribution General Provisions. (1) Beginning with the state fiscal year 2019 DSH payment, each DSH payment shall be made in accordance with KRS 205.639, 205.640, 205.6401, and 205.6403.

(2) During the determination of an initial DSH payment, the department may adjust a hospital's total uncompensated care costs reported on the hospital's base year Medicaid DSH survey if the amount reported appears likely to result in a substantial redistribution of DSH funds that could have been avoided by adjusting the hospital's total uncompensated care costs.

(3) If an overpayment has been identified**, the hospital has not filed a timely appeal *pursuant to 907 KAR 1:671*,** and repayment was not made by the hospital on or before January 31, pursuant to KRS 205.640, the department shall withhold future payment to the hospital until the department has collected in full the amount owed by the hospital to the department.

Section 3. Disproportionate Share Hospital Medicaid DSH Survey Submission Provisions. (1) Each Medicaid DSH survey submitted for the purpose of determining initial DSH payment amounts shall be submitted in accordance with the timeline established in KRS 205.640.

(2) Each Medicaid DSH survey and supporting documentation submitted pursuant to subsection (1) of this section shall be updated prior to the start of the final DSH examination to incorporate more complete data.

(a) The updated Medicaid DSH survey and the accompanying supporting documentation shall be submitted no later than October 31 of the calendar year ending two (2) calendar years after the end of the state fiscal year to which the DSH payment pertains.

(b) The updated Medicaid DSH survey and the accompanying supporting documentation shall be submitted even if no changes were made since the original submission.

(c) A submission of a Medicaid DSH survey by a hospital shall serve as certification that all Medicaid and uninsured DSH data is:

1. Complete;

2. Accurate; and

3. In agreement with the hospital's internal records.**[~~(d) Failure to submit a final DSH survey in accordance with paragraph (a) of this subsection or other required information for receipt of a final DSH payment shall result in:~~**

~~1. A recoupment of the initial DSH payment; and~~

~~2. No calculation of a final payment by the department.~~]

(3) If a provider does not have twelve (12) months of cost report data needed to determine an initial DSH payment, the cost report used in determining the provider's initial DSH payment shall be prioritized as follows:

(a) The most recent cost report, based on the fiscal year end, in the base year with greater than or equal to six (6) months of data;

(b) The most recent cost report, based on the fiscal year end, from the year prior to the base year with greater than or equal to six (6) months of data; or

(c) If a cost report is not available with at least six (6) months of data, the new provider proxy method shall be utilized pursuant to KRS 205.640(3)(e)1.d.

Section 4. Disproportionate Share Hospital Medicaid DSH Payment Appeals Provisions. (1) An initial DSH payment shall not be subject to appeal in accordance with KRS 205.640; and

(2) A final DSH payment shall be subject to appeal in accordance with 907 KAR 1:671.

Section 5. Disproportionate Share Hospital Medicaid DSH Survey Payment Redistribution Provisions. For state fiscal year 2011 to state fiscal year 2018, a DSH payment shall be redistributed in accordance with this section.(1) A DSH payment found in the DSH audit process for a given state fiscal year that exceeds the DSH limit for a hospital shall be recouped from that hospital in order to reduce the DSH payment to the limit established pursuant to this administrative regulation.

(a) The excess amount identified shall be due to the department within sixty (60) days after notification**, unless an appeal is filed in a timely fashion *pursuant to 907 KAR 1:671***.

(b) If a hospital **does not file a timely appeal *pursuant to 907 KAR 1:671* and** does not submit the excess amount established pursuant to this subsection within sixty (60) days, the department shall withhold future payments to the hospital until the department has collected in full the amount owed by the hospital to the department.

(2) A payment that is recouped from a hospital as a result of the DSH audit shall be redistributed to hospitals that have been determined by the department to have paid less than their hospital-specific DSH limit pursuant to this administrative regulation.

(3) Each redistribution shall:

(a) Occur proportionately to the original distribution of DSH funds; and

(b) Not exceed each hospital's specific DSH limit.

(4) If, because of the hospital-specific DSH limits, DSH funds cannot be fully redistributed within the original distribution pool established pursuant to subsection (3) of this section, the excess funds shall be redistributed to the other distribution pools in proportion to the original DSH payments made by the department.

(5) If the Medicaid program's original DSH payments do not fully expend the federal DSH allotment for any state fiscal year, the remaining DSH allotment shall be:

(a) Retroactively paid to each hospital that is determined to have received less than its hospital-specific DSH limit after consideration of any potential redistributions pursuant to subsection (1) of this section;

(b) Proportional to the original DSH payment made to each hospital; and

(c) Limited to each hospital's specific DSH limit.

Section 6. Federal Approval and Federal Financial Participation. The department's coverage of DSH payments or other services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation;

(2) Availability of state funds; and

(3) Centers for Medicare and Medicaid Services' approval.[~~A DSH distribution shall:~~

~~(1) Be made to a qualified hospital;~~

~~(2) Be based upon available funds in accordance with KRS 205.640;~~

~~(3) Be based upon a hospital's proportion of inpatient and outpatient indigent care from the preceding state fiscal year;~~

~~(4) Be a prospective amount. For example, a DSH distribution made to a hospital in October 2007 shall cover the state fiscal year beginning July 1, 2007 and ending June 30, 2008;~~

~~(5) Not be subject to settlement or revision based on a change in utilization during the year to which it applies; and~~

~~(6) Be made on an annual basis.~~

~~Section 3. Disproportionate Share Hospital Distribution to a DRG-Reimbursed Acute Care Hospital. The department shall determine a DSH distribution to a DRG-reimbursed acute care hospital by:~~

~~(1) Determining a hospital's average reimbursement per discharge;~~

~~(2) Dividing the hospital's average reimbursement per discharge by Medicaid days per discharge;~~

~~(3) Multiplying the amount established in subsection (2) of this section by the hospital's total number of inpatient indigent care days for the most recently completed state fiscal year to establish the hospital's inpatient indigent care cost;~~

~~(4) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091;~~

~~(5) Combining the inpatient indigent care cost established in subsection (3) of this section with the outpatient indigent care cost established in subsection (4) of this section to establish a hospital's indigent care cost total; and~~

~~(6) Comparing the total indigent care cost for each DRG-reimbursed hospital to the indigent care costs of all hospitals receiving DSH distributions under the acute care pool pursuant to KRS 205.640(3)(d) to establish a DSH distribution on a pro rata basis.~~

~~Section 4. Disproportionate Share Hospital Distribution to a Critical Access Hospital, Rehabilitation Hospital or Long Term Acute Care Hospital. The department shall determine a DSH distribution to a critical access hospital, rehabilitation hospital, or long term acute care hospital:~~

~~(1) For the period beginning with the state fiscal year beginning July 1, 2007 and ending June 30, 2008 by:~~

~~(a) Multiplying the hospital's per diem rate in effect as of June 30, 2007 by its total number of inpatient indigent care days for the preceding state fiscal year (July 1, 2006 - June 30, 2007) to establish the hospital's inpatient indigent care cost;~~

~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091;~~

~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~

~~(d) Comparing the indigent care cost totals for each critical access hospital, rehabilitation hospital and long term acute care hospital to the indigent care costs of all hospitals receiving DSH distributions from the acute care pool pursuant to KRS 205.640(3)(d) to establish a hospital's DSH distribution on a pro rata basis; and~~

~~(2) For the state fiscal year period beginning July 1, 2008 and subsequent state fiscal years, by:~~

~~(a) Multiplying the hospital's per diem rate in effect as of August 1 of the state fiscal year period included in the state fiscal year period referenced in subsection (2) of this Section by its total number of inpatient indigent care days for the preceding state fiscal year to establish the hospital's inpatient indigent care cost;~~

~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091;~~

~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~

~~(d) Comparing the indigent care cost totals for each critical access hospital, rehabilitation hospital and long term acute care hospital to the indigent care costs of all hospitals receiving DSH~~

~~distributions from the acute care pool pursuant to KRS 205.640(3)(d) to establish a hospital's DSH distribution on a pro rata basis.~~

~~Section 5. Disproportionate Share Hospital Distribution to a Private Psychiatric Hospital. The department shall determine a DSH distribution to a private psychiatric hospital:~~

~~(1) For the period beginning with the state fiscal year beginning July 1, 2007 and ending June 30, 2008 by:~~

~~(a) Multiplying the hospital's per diem rate in effect as of June 30, 2007 by its total number of inpatient indigent care days for the preceding state fiscal year (July 1, 2006 - June 30, 2007) to establish the hospital's inpatient indigent care cost;~~

~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091 or by establishing an inpatient equivalency;~~

~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~

~~(d) Comparing the indigent care cost totals of each private psychiatric hospital to establish, using the DSH funding allocated to private psychiatric hospitals, a private psychiatric hospital's DSH distribution on a pro rata basis; and~~

~~(2) For the state fiscal year period beginning July 1, 2008 and subsequent state fiscal years, by:~~

~~(a) Multiplying the hospital's per diem rate in effect as of August 1 of the state fiscal year period included in the state fiscal year period referenced in subsection (2) of this Section by its total number of inpatient indigent care days for the preceding state fiscal year to establish the hospital's inpatient indigent care cost; and~~

~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091 or by establishing an inpatient equivalency;~~

~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~

~~(d) Comparing the indigent care cost totals of each private psychiatric hospital to establish, using the DSH funding allocated to private psychiatric hospitals, a private psychiatric hospital's DSH distribution on a pro rata basis.~~

~~Section 6. Disproportionate Share Hospital Distribution to a State Mental Hospital. The Department shall determine a DSH distribution to a state mental hospital by:~~

~~(1) Comparing each state mental hospital's costs of services provided to individuals meeting the indigent eligibility criteria established in Section 9 of this administration regulation, minus any payment made by or on behalf of the individual to the hospital; and~~

~~(2) Using the DSH funding allocated to state mental hospitals to establish a state mental hospital's DSH distribution on a pro rata basis.~~

~~Section 7. Disproportionate Share Hospital Distribution to a University Hospital. The department's DSH distribution to a university hospital shall:~~

~~(1) Be based on the hospital's historical proportion of the costs of services to Medicaid recipients, minus reimbursement paid via 907 KAR 10:825 or 907 KAR 10:815, plus the costs of services to indigent and uninsured patients minus any distributions made on behalf of indigent and uninsured patients;~~

~~(2) Be contingent upon a facility providing up to 100 percent of matching funds to receive federal financial participation for distribution under this subsection; and~~

~~(3) Comply with KRS 205.640(3)(a)2.~~

~~Section 8. Indigent Care Eligibility. (1) Prior to billing a patient and prior to submitting the cost of a hospital service to the department as uncompensated, a hospital shall use the indigent care eligibility form, DSH-001, Application for Disproportionate Share Hospital (DSH) Program, and the Disproportionate Share Hospital (DSH) Program Manual, to assess a patient's financial situation to determine if:~~

~~(a) Medicaid or Kentucky Children's Health Insurance Program (KCHIP) may cover hospital expenses; or~~

~~(b) A patient meets the indigent care eligibility criteria.~~

~~(2) An individual referred to Medicaid or KCHIP by a hospital shall apply for the referred assistance, Medicaid or KCHIP, within thirty (30) days of completing the DSH-001, Application for Disproportionate Share Hospital Program (DSH), at the hospital.~~

~~Section 9. Indigent Care Eligibility Criteria. (1) A hospital shall receive disproportionate share hospital funding for an inpatient or outpatient medical service provided to an indigent patient under the provisions of this administrative regulation if the following apply:~~

~~(a) The patient is a resident of Kentucky;~~

~~(b) The patient is not eligible for Medicaid or KCHIP;~~

~~(c) The patient is not covered by a third-party payor;~~

~~(d) The patient is not in the custody of a unit of government that is responsible for coverage of the acute care needs of the individual;~~

~~(e) The hospital shall consider all income and countable resources of the patient's family unit and the family unit shall include:~~

~~1. The patient;~~

~~2. The patient's spouse;~~

~~3. The minor's parent or parents living in the home; and~~

~~4. Any minor living in the home;~~

~~(f) A household member who does not fall in one (1) of the groups listed in paragraph (e) of this subsection shall be considered a separate family unit;~~

~~(g) The annual countable resources of a family unit shall not exceed:~~

~~1. $2,000 for an individual;~~

~~2. $4,000 for a family unit size of two (2); and~~

~~3. Fifty (50) dollars for each additional family unit member;~~

~~(h) Countable resources shall be reduced by unpaid medical expenses of the family unit to establish eligibility; and~~

~~(i) The patient or family unit's gross income shall not exceed the federal poverty limits published annually in the Federal Register and in accordance with KRS 205.640.~~

~~(2) Except as provided in subsection (3) of this section, total annual gross income shall be the lessor of:~~

~~(a) Income received during the twelve (12) months preceding the month of receiving a service; or~~

~~(b) The amount determined by multiplying the patient's or family unit's income, as applicable, for the three (3) months preceding the date the service was provided by four (4).~~

~~(3) A work expense for a self-employed patient shall be deducted from gross income if:~~

~~(a) The work expense is directly related to producing a good or service; and~~

~~(b) Without it the good or service could not be produced.~~

~~(4) A hospital shall notify the patient or responsible party of his eligibility for indigent care.~~

~~(5) If indigent care eligibility is established for a patient, the patient shall remain eligible for a period not to exceed six (6) months without another determination.~~

~~Section 10. Indigent Care Eligibility Determination Fair Hearing Process. (1) If a hospital determines that a patient does not meet indigent care eligibility criteria as established in Section 9 of this administrative regulation, the patient or responsible party may request a fair hearing regarding the determination within thirty (30) days of receiving the determination.~~

~~(2) If a hospital receives a request for a fair hearing regarding an indigent care eligibility determination, impartial hospital staff not involved in the initial determination shall conduct the hearing within thirty (30) days of receiving the hearing request.~~

~~(3) A fair hearing regarding a patient's indigent care eligibility~~

~~determination shall allow the individual to:~~

~~(a) Review evidence regarding the indigent care eligibility determination;~~

~~(b) Cross-examine witnesses regarding the indigent care eligibility determination;~~

~~(c) Present evidence regarding the indigent care eligibility determination; and~~

~~(d) Be represented by counsel.~~

~~(4) A hospital shall render a fair hearing decision within fourteen (14) days of the hearing and shall provide a copy of its decision to:~~

~~(a) The patient or responsible party who requested the fair hearing; and~~

~~(b) The department.~~

~~(5) A fair hearing process shall be terminated if a hospital reverses its earlier decision and notifies, prior to the hearing, the patient or responsible party who requested the hearing.~~

~~(6) A patient or responsible party may appeal a fair hearing decision to a court of competent jurisdiction in accordance with KRS 13B.140.~~

~~Section 11. Indigent Care Reporting Requirements. (1) On a quarterly basis, a hospital shall collect and report to the department indigent care patient and cost data.~~

~~(2) If a patient meeting hospital indigent care eligibility criteria is later determined to be Medicaid or KCHIP eligible or has other third-party payor coverage, a hospital shall adjust its indigent care report previously submitted to the department in a future reporting period.~~

~~Section 12. Merged Facility. If two (2) separate entities merge into one (1) organization and one (1) of the merging entities has disproportionate status and the other does not, the department shall retain for the merged entity the status of the entity which reported the highest number of Medicaid days paid.~~

~~Section 13. Incorporation by Reference. (1) The following material is incorporate by reference:~~

~~(a) "The Disproportionate Share Hospital (DSH) Program Manual", January 2008 edition; and~~

~~(b) The "DSH-001, Application for Disproportionate Share Hospital (DSH) Program", March 2007 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.~~]

CAROL H. STECKEL, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, April 9, 2019)

922 KAR 1:565. Service array for a relative or fictive kin caregiver.

RELATES TO: KRS 2.015, 45.237-45.241, 156.496, 194A.005(1), **194A.050(1),** 199.011, 199.462, 199.470-199.590, 205.211, Chapter 387, 403.270-403.355, 405.024, 527.100, 527.110, 600.020, **605.120, 605.130(7), 605.150(1),** 610.110, 620.020(1), 620.090, 620.140, 620.170, 42 U.S.C. 600-619, 671, 673, 675, D.O. v. Glisson, 847 F.3d 374 (6th Cir. 2017), cert. denied, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017)

STATUTORY AUTHORITY: KRS 194A.050(1), 605.120(6), 605.130(7), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary ***of the Cabinet for Health and Family Services*** to promulgate, administer, and enforce administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 605.150(1) allows the cabinet to promulgate administrative regulations to implement provisions of the chapter, including KRS 605.130(7), which authorizes the cabinet to perform such other services as may be deemed necessary for the protection of children. KRS 605.120(6) requires the cabinet to promulgate administrative regulations governing programming and other relative caregiver and fictive kin services that support a safe, developmentally appropriate, and more permanent placement with a qualified relative or fictive kin **caregiver** for a child who would be **placed[~~place~~]** in another out-of-home placement as authorized by KRS 605.120(5). This administrative regulation establishes the service array for a relative or fictive kin caregiver to the extent funds are available.

Section 1. Definitions. (1) "Absent parent search" means cabinet-initiated efforts to locate a biological or legal parent, or a relative.

(2) "Cabinet" is defined by KRS 194A.005(1), 199.011(3), and 600.020(7).

(3) "Case permanency plan" is defined by KRS 620.020(1).

(4) "Child" means a:

(a) Child defined by KRS 199.011(4) and 600.020(9);

(b) Person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(e); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(5) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families who meet the eligibility requirements with the financial resources to find and afford quality child care, as established in 922 KAR 2:160.

(6) "Child who is a candidate for foster care" is defined by 42 U.S.C. 675(13).

(7) "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).

(8) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families (TANF) money payment program for a child who is deprived of parental support or care, as established in 921 KAR 2:006.

(9) "Parent" is defined by 42 U.S.C. 675(2).

(10) "Relative" means an individual related to a child by blood, marriage, or adoption.

Section 2. Identification of a Relative ***or Fictive Kin***. (1) If a relative or fictive kin placement is in the best interest of a child upon removal from the child's home of origin, the cabinet shall:

(a) Use an absent parent search in accordance with 922 KAR 1:140, Section 3, to locate a relative; or

(b) Discuss a prospective relative or fictive kin placement with the:

1. Child's parent; and

2. Child based upon the age and development of the child.

(2) Cabinet staff shall make reasonable attempts to:

(a) Contact the relative or fictive kin; and

(b) Assess the relative's or fictive kin's **fitness [~~appropriateness~~]** to serve as a placement resource for the child **in accordance with Section 3 of this administrative regulation**.

(3) The cabinet shall:

(a) Disclose legal and service options available to a prospective relative or fictive kin:

1. Who is being assessed as a placement resource; and

2. Prior to the time a child is placed in the relative's or fictive kin's home; and

(b) Obtain written acknowledgement of the disclosure of legal and service options from the relative or fictive kin.

Section 3. Fitness of the Relative or Fictive Kin. (1) To support a child's health, safety, and wellbeing in placement with a relative or fictive kin caregiver, based upon the legal option selected by the relative or fictive kin, the cabinet shall:

(a) Complete a **safety check and review**[~~home evaluation~~] with consideration given to the relative's or fictive kin's:

1. Willingness and ability to:

a. Protect the child from abuse or neglect;

b. Participate in the child's case permanency plan;

c. Access:

(i) Transportation;

(ii) Telephone;

(iii) Medical and dental services;

(iv) First aid supplies; and

(v) School;

d. Provide full-time care;

e. Provide for the child's sleeping and eating;

f. Maintain adequate heat and ventilation in the home;

g. Use active smoke detectors in the home; and

h. Assure the child's inaccessibility to:

(i) Medication unless an exception consistent with 922 KAR 1:350, Section 3(12), applies;

(ii) Alcoholic beverages;

(iii) Poisonous materials;

(iv) Firearms or ammunition in accordance with KRS 527.100 and 527.110;

(v) Unsupervised contact with the birth parent**, if prohibited**; and

(vi) Cleaning materials unless the materials are age or developmentally appropriate for the child or the child is supervised; and

2. Understanding of the impact that familial abuse, neglect, or substance abuse may have on a child and the child's extended family; and

3. Fitness in accordance with 922 KAR 1:490; or

(b) Conduct a home study and background checks in accordance with 922 KAR 1:350 and 922 KAR 1:490 in consideration of the relative or fictive kin as a prospective foster or adoptive home.

(2) A relative or fictive kin caregiver who seeks approval as a foster or adoptive parent shall meet the training requirements established in 922 KAR 1:495.

(3) The cabinet shall:

(a) Document in the case file that the fictive kin has completed training on the prevention and recognition of pediatric abusive head trauma in accordance with KRS 199.462; and

(b) Provide information to the relative or fictive kin on how to recognize and report child abuse and neglect.

(4) To the extent funds are available, the cabinet shall make available to a relative or fictive kin caregiver training:

(a) For foster parents, adoptive parents, and respite care providers in accordance with 922 KAR 1:495; and

(b) Developed to address the needs of relative and fictive kin caregivers, including management of the relationship with the child's parent.

(5) A relative's or fictive kin's decision to pursue approval as a foster parent shall not guarantee the cabinet's approval.

Section 4. Relative Placement Support Benefit. (1) To the extent that funds are available, the cabinet shall provide**, if requested,** 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 due to:

1. Child abuse or neglect by the child's biological or adoptive parent; or

2. The death of both parents;

(c) That will provide for a child's immediate needs, such as:

1. Clothing;

2. School supplies;

3. Additional furniture; or

4. A deposit for a larger apartment; and

(d) That **is equal to or** does not exceed the amount for the appropriate number of eligible children as follows:

Number of Eligible Children	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) 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 pursuant to 921 KAR 2:006 and 921 KAR 2:016.

(4) A relative shall not be eligible for an initial allowance as a foster parent if the relative receives the relative placement support benefit.

Section 5. Legal Options. (1) The following legal options shall be available to a prospective relative or fictive kin caregiver:

(a) Family-arranged care through:

1. A prevention plan in accordance with 922 KAR 1:330;

2. An affidavit to make health care treatment and school-related decisions for the child in accordance with KRS 405.024; or

3. A power of attorney for temporary delegation of parental rights and responsibilities in accordance with KRS 403.352 and 403.353;

(b) Court-ordered custody to the relative or fictive kin caregiver in accordance with KRS 403.270-403.355, 620.090, or 620.140(1)(c);

(c) **Court-ordered** [~~Court-order~~] custody to the cabinet in accordance with KRS 620.090, 620.140(1)(c), or 620.170;

(d) Adoption in accordance with KRS 199.470-199.590 or 922 KAR 1:100; or

(e) Guardianship in accordance with KRS Chapter 387.

(2) Considerations in assessing the legal options for a relative or fictive kin caregiver shall include:

(a) The likelihood of the child's reunification with the child's home of origin, including the child's permanency goal in accordance with 922 KAR 1:140;

(b) The relationship that the relative or fictive kin caregiver has with the child's home of origin or parent;

(c) The ability of the relative or fictive kin caregiver to:

1. Manage parental visitation; and

2. Ensure the child's safety;

(d) The relative or fictive kin caregiver's financial situation and need for additional resources to support the safety, permanency, and wellbeing of the child;

(e) The level of involvement and types of services that will be needed from the cabinet to the caregiver and the child to ensure the safety, permanency, and wellbeing of the child; and

(f) The level of support and types of services that will be needed if:

1. The caregiver assumes legal responsibility for the child; or

2. Reunification with the child's home of origin is not possible for the child.

(3) Permanency services for a child in the custody of the cabinet shall be in accordance with 922 KAR 1:140.

Section 6. Service Options. (1) The array of monetary supports

on behalf of a child placed with a relative or fictive kin caregiver shall include:

(a) The Relative Placement Support Benefit in accordance with Section 4 of this administrative regulation;

(b) CCAP in accordance with 922 KAR 2:160;

(c) Child support if application is made or intergovernmental process applies in accordance with 921 KAR 1:380;

(d) K-TAP if an application is made in accordance with 921 KAR 2:006 and 921 KAR 2:016;

(e) The Kinship Care Program in accordance with 922 KAR 1:130;

(f) Health benefits for the child:

1. In accordance with 907 KAR 20:005; or

2. If application is made in accordance with 907 KAR 20:015, 907 KAR 4:020, or 907 KAR 4:030;

(g) Foster care per diem in accordance with:

1.a. 922 KAR 1:350; or

b. D.O. v. Glisson, 847 F.3d 374 (6th Cir. 2017), cert. denied, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017); and

2. The terms and conditions specified in the individual agreement between the cabinet and the foster parent;

(h) Adoption assistance in accordance with 922 KAR 1:050 or 922 KAR 1:060;

(i) To the extent funds are available, post-permanency services, including:

1. Subsidized guardianship under 42 U.S.C. 671 and 673 once the benefit is available; or

2. Post-adoption placement stabilization services in accordance with 922 KAR 1:530; or

(j) The Supplemental Nutrition Assistance Program if application is made in accordance with 922 KAR 3:030.

(2) To the extent funds are available, effective October 1, 2019, the cabinet shall provide prevention and family services and programs in accordance with 42 U.S.C. 671(e) to a child who is a candidate for foster care, including:

(a) Mental health and substance abuse prevention and treatment services; or

(b) In-home parent skill-based programs.

(3) To the extent funds are available, the cabinet or its designee shall provide the following services for a relative or fictive kin caregiver:

(a) A hotline;

(b) Online portal;

(c) Crisis intervention;

(d) Support group;

(e) Advocacy;

(f) Community education; and

(g) Referral to community resource or provider, such as:

1. Family Resource and Youth Service Centers established in accordance with KRS 156.496;

2. The Health Access Nurturing Development Services (HANDS) Program in accordance with 902 KAR 4:120;

3. The Special Supplemental Nutrition Program for Women, Infants, and Children or "WIC program" in accordance with 902 KAR Chapter 18;

4. Kentucky's Early Intervention Program, First Steps, in accordance with 902 KAR Chapter 30;

5. Mental health programming; or

6. Caregiver programming made available through the Department for Aging and Independent Living or its designee.

(4) 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 7. Complaint and Service Appeals. (1) A relative or fictive kin caregiver may submit a service complaint or an appeal concerning a protection and permanency service in accordance with 922 KAR 1:320.

(2) An appeal concerning CCAP shall be in accordance with 921 KAR 2:055, 922 KAR 2:020, or 922 KAR 2:260.

(3) An appeal regarding K-TAP shall be in accordance with 921 KAR 2:055.

(4) An appeal concerning the Supplemental Nutrition Assistance Program shall be in accordance with 921 KAR 3:060 or 921 KAR 3:070.

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

FINANCE AND ADMINISTRATION CABINET
Department for Facilities and Support Services
(Amended After Comments)

200 KAR 3:020. Use of State-Owned Facilities and Grounds.

RELATES TO: KRS 42.019, 42.425, 56.010, 56.463

STATUTORY AUTHORITY: KRS 42.019, 42.425, 56.010, 56.463

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes uniform rules for the governance of state facilities and grounds. While all state facilities and grounds are owned by the people of the Commonwealth at large, it is sometimes detrimental to the effective carrying-out of the people's business for persons, or groups of persons, to disregard reasonable conditions established for use of state facilities and state grounds. The purpose of this administrative regulation is to balance the interests of the citizens of the commonwealth at large with the interests of individual citizens, or groups of citizens, to use state facilities and grounds in a reasonable fashion in order to redress their grievances and coordinate various uses of public buildings and Grounds, to preserve Historic Properties, to ensure the health and safety of the public and state employees while on state property, and to protect the public from unnecessary financial losses. KRS 42.019 directs that the Division of Historic Properties shall be responsible for management and preservation of state-owned historic properties. KRS 42.425 entrusts the Department for Facilities and Support Services with primary responsibility for developing and implementing policies applicable to all state agencies to ensure effective planning for and efficient operation of state office buildings. KRS 56.010 states that the Finance and Administration Cabinet is empowered to institute civil proceedings in the name of the Commonwealth for any trespass or injury to state property under its control. KRS 56.463 authorizes the Finance and Administration Cabinet to adopt rules and promulgate administrative regulations as may be necessary to govern the acquisition, control, and disposition of the real property.

Section 1. Definitions. (1) "Agency" means a "budget unit," defined by KRS 48.010(9).

(2) "Agency application" means a form created and maintained by a state agency that allows individuals, organizations, and entities to request the ability to conduct an event at a facility or on grounds assigned to that agency.

(3) "Applicant" means a visitor who has submitted an application to use commonwealth facilities**[and all Visitors present at a State Facility or on State Grounds pursuant to an approved application]**.

(4) "Application" means an application to use commonwealth facilities form created and maintained by the Division of Historic Properties that allows individuals, organizations, and entities to request the ability to conduct an event at historic properties.

(5) "Cabinet" means the Finance and Administration Cabinet.

(6) "Commissioner" means the Commissioner of the Department for Facilities and Support Services.

(7) "Department" means the Department for Facilities and Support Services.

(8) "Division" means the Division of Historic Properties, established pursuant to KRS 45.425(1)(d)(4).

(9) "Event" means any performance, ceremony, presentation, meeting, or rally held in a state facility or on state grounds.**[(10) "Guest" means an individual who has booked or paid for overnight accommodations at a State Facility or on State Grounds, or an individual who has been provided with living accommodations by the state in connection to his or her employment with the Commonwealth.]**

(10)[(11)] "Historic properties" means state-owned historic properties under the management and preservation authority of the Division of Historic Properties, pursuant to KRS 42.019.

(11)[(12)] "Organization" means any group or association of individuals joined together to accomplish shared goals or to advance shared interests or values, inclusive of its employees, agents, invitees, or guests.

(12)[(13)] "Public meeting" means a "meeting," as defined by KRS 61.805(1).

(13)[(14)] "Normal business hours" means the hours in which a facility is declared or posted as open and accessible to individuals other than employees or agents of the commonwealth.

(14)[(15)] "Rally" means a gathering of **twelve (12)[four (4)]** or more visitors for the purpose of actively promoting a cause.

(15)[(16)] "Solicit" and "solicitation" are defined by KRS 367.650(4).

(16)[(17)] "Spontaneous event" means an event where **twelve (12)[four (4)]** or more visitors gather to exercise their First Amendment rights in facilities and on grounds open to the general public in response to a triggering event that has occurred within the preceding calendar week, or is currently occurring. **Regularly scheduled events, or events that are advertised by any means seven (7) or more calendar days prior to the starting date of the event are presumptively not "spontaneous events".**

(17)[(18)] "State facilities" or "facilities" means any building owned or managed by the Finance and Administration Cabinet pursuant to KRS 56.463.

(18)[(19)] "State grounds" or "grounds" means any lands owned or managed by the Finance and Administration Cabinet pursuant to KRS 56.463.

(19)[(20)] "Tenant" means an individual or organization, excepting commonwealth agencies, occupying land or property rented from the commonwealth; limited to the specific state facility or state grounds where the land or property is located.

(20)[(21)] "Visitor" means any person, organization, or entity present at a State Facility or on State Grounds that is not employed or contracted to perform work there on behalf of the commonwealth. A person or organization employed or contracted to perform work on behalf of the commonwealth is a visitor if at a state facility or on state grounds for reasons other than performing work on behalf of the commonwealth. The term "visitor" includes those persons present at state facilities or state grounds by virtue of an approved application.

Section 2. Request to Use State Facilities or Grounds. (1) Within all areas assigned to it, a state agency may specify an agency application and approval process for public use of its facilities, so long as:

(a) The specified process does not conflict with the requirements of this administrative regulation, or with other state or federal law; and

(b) the agency prominently posts the agency application and approval process on its Web site.

(2) Each visitor seeking to hold an event at a state historic property shall submit a completed "Application to Use Commonwealth Facilities" to the division at least **seven (7)[ten (10)]** calendar days prior to the anticipated date of the event.

(a) Applications may not be submitted, and an event may not be scheduled, more than 365 calendar days prior to the date of an event.

(b) An applicant**[, or related visitors, organizations, or entities]** may only make one (1) application for one (1) event at a time.

Applications shall be reviewed and approved on a first come, first served basis, except that state sponsored activities shall be given priority **over applications received by the division on the same date as a request by an agency regarding a state-sponsored event**.

(d) The division may impose fees for the use of specific state facilities or grounds by visitors, as well as fees for the use of equipment at state facilities or on state grounds.

(e) The division may deny an application if:

1. The application is incomplete;

2. The proposed event requests space allocated for a state sponsored activity, a previously scheduled event, the normal operation of state business, or a legislative session;

3. The proposed event poses a safety or security risk;

4. Applicant**[~~, or related visitors, organizations, or entities~~]** has made material misrepresentations regarding the nature or scope of an event or solicitation, inclusive of misrepresentations contained in prior applications; or

5. Applicant**[~~, or related visitors, organizations, or entities~~]** has failed to pay costs or damages due for a prior event.

(f) If an application is approved, the division shall issue a written approval specifying:

1. The property or portion of property for which approval is granted;

2. The date and time period for which approval is granted;

3. Any fee or costs to be paid for use of state property or equipment;

4. The amount of any advance deposit required; and

5. Whether proof of liability insurance shall be required for the requested use.

(g) If an application is denied, the division shall issue a written denial specifying:

1. The Section 2(2)(e) provision the denial is based upon;

2. If the application is incomplete, a description of the missing information;

3. If the applicant has made prior misrepresentations, a description of the misrepresentation; and

4. If the applicant has failed to pay costs or damages for a prior event, a description of the costs or damages and the amount remaining due.

(h)[~~(g)~~] Any written approval to use Commonwealth facilities is non-transferable and the purpose, time, place, or other conditions specified for use may not be changed without the written consent of the Division.

(i)[~~(h)~~] The division may revoke prior approval to hold an event at a state historic property if the property is requested for a state sponsored activity. If the division revokes prior approval for an applicant to use a historic property, it shall either:

1. Provide a refund of any fee paid for the use of the state property, or

2. Provide alternate dates that the facility is available for use.

(3) Except for spontaneous events, visitors who make use of a state facility or state grounds without a permit:

(a) May be charged a fee equal to the amount normally charged for approved uses, and

(b) May be removed from a state facility or state grounds if their use interferes with a use approved by the division, or with a state sponsored activity.

Section 3. Conditions Governing Use of State Facilities and Grounds. (1) General conditions governing all state facilities and grounds to which visitors, applicants, and other persons visiting under application agree to abide.

(a) Visitors shall agree to be, and are, responsible for any vandalism, damage, breakage, loss, or other destruction caused by that individual or organization. In regards to state historic properties, costs may include costs for the services of specialists in relevant historical restoration skills.

(b) An agency agrees to reimburse, and shall reimburse, the department for any damage caused to state facilities assigned to its use.

(c) This administrative regulation is not intended to waive or preclude recovery by an agency from visitors for damages caused by them.

(d) Visitors shall indemnify and hold harmless the Commonwealth of Kentucky, its departments, agents, employees, and contractors from and against any and all suits, damages, claims, or liabilities due to personal injury or death; damage to or loss of property; or for any other injury or damage arising out of or resulting from the use of state facilities or grounds, except as provided by in KRS Chapter **49[44]**.

(e) Visitors are prohibited from digging, excavating, or using metal detectors.

(f) Visitors are prohibited from posting or affixing signs, announcements, or other documents on any exterior or interior wall, ceiling, floor, door, window, or other surface not specifically designated for that purpose.

(g) Visitors must promptly remove items or materials owned or used by them after an exhibit, event, or visitation. Failure to do so may result in the department billing the individuals or organizations with the costs of disposal, inclusive of use of staff time, which the individuals or organizations agree to be responsible for as a condition of their use of state facilities.

(h) Smoking is not permitted in state facilities or on state grounds.

(i) Visitors may not wear masks or hoods which conceal the identity of the wearer, with the exception of religious dress of a generally recognized religion or minor children celebrating Halloween.

(j) Public use of state facilities by visitors shall not interfere with the conduct of normal public business, including**,** but not limited to, any legislative session, court proceedings, or any other public business.

(k) Use of state facilities and state grounds by visitors shall conform to any applicable limits or requirements contained in the Kentucky Building Code, the Kentucky Standards of Safety contained in 815 KAR 10:060, orders of the State Fire Marshall, and local fire codes, inclusive of any applicable occupancy limits.

(l) Visitors shall not be permitted to obstruct passageways in a manner that would impair the normal conduct of state business or the safe evacuation of people in the event of a fire or similar emergency.

(m) Use or parking of a motorized vehicle on lawns, sidewalks, or terraces shall be restricted to emergency, maintenance, construction, development, delivery, or authorized building access purposes as determined by the department.

(n) The operation of aircraft, other than at designated landing areas, is prohibited.

(o) The mass release of birds, butterflies, or other living creatures is prohibited.

(p) In addition to any use limitations imposed by this administrative regulation, within areas assigned to its use, an agency may impose such additional use restrictions as are necessary and proper to ensure:

1. Efficient operation and conduct of state business;

2. The safety of state employees and visitors;

3. The security of public assets and data; and

4. Restrictions necessary to conform to requirements of state and federal law.

(q) The following items are prohibited, unless owned or controlled by the state:

1. Hot-air balloons and similar lighter-than-air objects and aircraft;

2. Powered aircraft, including but not limited to[,] drones[,] and remotely-operated aircraft;

3. Remotely controlled toys and vehicles;

4. Rockets and similar missiles; and

5. Fireworks and other explosive items.

(r) The following items are not permitted in any state facility or on any state grounds, unless such items are owned or controlled by the state:

1. Any equipment, apparatus, or machinery that fails to conform with local fire codes;

2. Skateboards, roller skates, rollerblades, bicycles, mopeds, motor bicycles, motorcycles, and hoverboards; exclusive of mobility devices used by a disabled individual; and

3. Any personal property that interferes with any electrical or mechanical system in a state facility.

(s) The terms of this administrative regulation shall not apply to:

1. **Tourism, Arts, and Heritage Cabinet administered facilities and properties[~~Guests of the state~~]**;

2. Tenants of state facilities;

3. Inmates and other incarcerated persons; or

4. Other individuals in the care, custody, or control of the state.

(2) Operating hours and access requirements.

(a) The commissioner, in consultation with agencies using each facility, shall establish normal business hours to designate when state facilities and grounds are open for public access. The commissioner may delegate authority to set normal business hours for all state facilities and grounds or for specific state facilities and grounds.

(b) Normal business hours of operation shall be posted at public entrances of state facilities and prominently posted on state grounds.

(c) Public entrances, operating hours, and scope of access are subject to change due to maintenance, emergency, disaster, safety threats, and similar concerns as determined by the commissioner.

(d) For purposes of public security and safety, all packages, backpacks, purses, bags, briefcases, or other similar items brought into a state facility are subject to search.

(e) No visitor may enter or remain on state facilities or grounds after normal business hours of operation without express approval, except state employees, contract workers for the state, or members of the public who are:

1. Meeting with an agency or legislator in regard to a public matter;

2. Attending a scheduled public meeting; or

3. Escorted by a state employee for the purpose of conducting state business.

(f) For purposes of this administrative regulation, any time period during which a state facility hosts a legislative session, public meeting, or court session shall be considered normal business hours in addition to any regular posted hours of operation.

(g) Visitors present at a state facility or on state grounds may be given up to thirty (30) minutes after normal business hours have ended to vacate the state facility or state grounds before being subject to immediate removal.

(h) When an agency allows individuals to remain in a state facility after normal business hours, it may be found to be jointly liable for damage caused by unescorted visitors.

(i) Visitors may not camp or remain overnight in state facilities or on state grounds.

(j) As a condition to their use of, or presence on, state facilities and grounds, applicant and visitors agree that state and local law enforcement officers may physically remove them from state facilities and grounds if they remain longer than thirty (30) minutes after normal business hours have ended and waive any claim against said law enforcement officers and the commonwealth unless undue force is used resulting in serious bodily injury.

(3) Commercial activity.

(a) The following commercial activity is prohibited in state facilities or on state grounds:

1. Selling, displaying, or vending commercial products;

2. Solicitation; and

3. Advertising.

(b) The above restrictions regarding commercial activity shall not apply to:

1. State agencies;

2. State-affiliated or approved charitable fund-raising campaigns;

3. Individuals or organizations who have contracted with the state to conduct commercial activity at state facilities or on state grounds;

4. Nominal employee activity, provided that it otherwise conforms with applicable employee ethics restrictions and does not interfere with state business; and

5. Notice boards specifically set-aside for public posting.

(4) Administration of usage conditions.

(a) In addition to any civil or criminal penalties provided for under Kentucky law, visitors who violate the restrictions contained in this administrative regulation, agree to be, and are subject to immediate removal from state grounds and facilities as follows:

1. When a violation concerns damage to state facilities or grounds, or disruption of state business, the commissioner or agency head of the affected agency may request removal by officers of the Kentucky State Police, contract security staff, or other state or local law enforcement officers; or

2. When a violation concerns a safety concern or threat, removal may be done at the request of the commissioner or agency head of the affected agency, or upon exercise of independent discretion of the Kentucky State Police, contract security staff assigned to the state facility or grounds, or other state and local law enforcement offices.

(b) the commissioner, agency head of a tenant agency, officers of the Kentucky State Police, contract security staff, or other state or local law enforcement officers may place limitations on the area in which an event may be conducted, or may direct the clearing of an area or separation of groups, in order to ensure compliance with applicable health and safety standards, to maintain public order, and to ensure that normal public business may be conducted.

(c) Nothing in this administrative regulation shall be interpreted as:

1. Prohibiting the regular conduct of agency operations in a state facility or on state grounds after normal business hours regarding state facilities or grounds assigned to the agency's use.

2. Limiting the ability of an agency to make full and unencumbered use of state facilities or grounds assigned to them, subject to any specific conditions placed upon their use by the department.

Section 4. Additional Conditions Regarding Access and Use for Historic Properties. (1) The Division of Historic Properties, established by KRS 42.425, may impose additional restrictions and use guidelines as are necessary and proper to ensure the responsible management, use, and preservation of state historic properties for the benefit of future generations.

(2) The Department of Parks and Kentucky Horse Park may advise and consult the division in regard to any restrictions or use guidelines relating to state shrines or museums.

(3) Any additional restrictions or use guidelines imposed by the Division of Historic Properties shall be prominently posted for public viewing on the Web site of the division, as well as being readily available to the public, in hardcopy form, at the main business office of the division.

Section 5. Enforcement. (1) Authority to initiate civil proceedings in the name of the Commonwealth for any trespass or injury to state property under the cabinet's control shall be vested with the cabinet's Office of General Counsel.

(2) The cabinet's Office of General Counsel may delegate authority to initiate civil proceedings to counsel for an agency affected by a trespass or injury to state property, to another state agency or to outside counsel.

(3) Nothing in this regulation is intended to waive or restrict in any way any normal criminal or civil remedies available under law that relates to improper trespass on, or misuse of, state facilities; disruption of public business; nuisance; or any other legal remedy otherwise available to the Commonwealth or its subdivisions.

(4) Nothing in this regulation is intended to limit, waive, or otherwise alter the authority the rules for the operation and parking of motor vehicles on state grounds, as enumerated in 200 KAR 3:010.

Section 6: Documents Incorporated by Reference.

(1) "Application to Use Commonwealth Facilities".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Finance and Administration Cabinet, Office of General Counsel, Capital Annex Room 392, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

WILLIAM M. LANDRUM III, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

CONTACT PERSON: Judy Piazza, Executive Director, Office of Legislative and Intergovernmental Affairs, Finance and Administration Cabinet, Capitol Annex Building Room 392, Frankfort, Kentucky 40601, phone (502) 564-4240, fax (502) 564-6785, email Judith.Piazza@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Judy Piazza

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes uniform rules for the governance of state facilities and grounds.

(b) The necessity of this administrative regulation: Sets standards to ensure safety and security of state facilities and grounds, as well as staff and visitors. Provides uniform guidelines for visitors to prevent damage to state properties, as well as to ensure for the efficient operation of state business.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Finance and Administration Cabinet and its subdivisions are authorized by KRS 42.019, KRS 42.425, KRS 56.463, and KRS 56.010 to ensure the preservation and efficient operation of state facilities, as well as to seek redress for damage to state property. This regulation establishes uniform standards for the use of state-owned properties by the public, in furtherance of those goals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By providing clear notice, to agencies and visitors, of any standards and rules which exist in regard to the use of state facilities and grounds.

(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. Regulation is a new administrative regulation, rather than an amendment.

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statues: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Regulation offers clarity to state agencies and visitors to state properties regarding standards for use of Commonwealth facilities and grounds.

(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: State agencies, in cooperation with the Commissioner for Facilities and Support Services, must establish normal business hours. Visitors must comply with normal business hours at state properties, avoid actions which cause damage to state facilities and grounds, and observe reasonable safety and security requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The incorporated "Application to Use Commonwealth Facilities" contains fees for the use of state historic facilities. The application, and its included fees, has been in use by the Division of Historic Properties since 2007.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Agencies and the Department for Facilities and Support Services will be provided clarity regarding standards and rules which allow for the public right of access to state facilities and grounds while preserving the ability to conduct regular public business, ensuring the safety of staff and visitors, and avoiding damage to state properties.

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

(a) Initially: No additional costs are expected. Current staff and funding will be utilized.

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current budgetary funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: None

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Application to Use Commonwealth Facilities, which is incorporated by reference, establishes fees for use and set-up services regarding state historic properties. Authorizes state agencies to create application process for facilities assigned to their use, which may include fees. Authorizes agencies to assess costs for damages done to state facilities and grounds.

(9) TIERING: Is tiering applied? Tiering is not applied. All state agencies follow identical requirements regarding the setting of normal business hours and their authority to establish an application process for public use of facilities assigned to them. Similarly, visitors to state facilities and grounds are uniformly subject to the conditions set forth in this regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The regulation impacts all state facilities and grounds owned or managed by the Finance and Administration Cabinet pursuant to KRS 56.463. Agencies occupying these state properties must observe the requirements of the regulation. State or local government agencies not occupying state facilities and grounds owned or managed by the Finance and Administration Cabinet 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 42.019, 42.425, 56.463, and 56.010

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There is no estimated effect on the expenses or revenues of any state or local agency from this administrative regulation. The regulation does not require any new labor-intensive administrative tasks, which may require additional staff, it merely clarifies standards to be applied regarding public use of state facilities and grounds.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

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

Revenues (+/-): $0

Expenditures (+/-): $0

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Kentucky Department of Education
(Amended After Comments)

704 KAR 8:060. Required Academic Standards for Social Studies.

RELATES TO: KRS 156.070, 156.160, 158.6451, 158.6453, 160.290

STATUTORY AUTHORITY: 156.070, 156.160, 158.6453(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. KRS 158.6453(2) requires the Kentucky Department of Education to implement a comprehensive process for the review of academic standards and assessment with the advice of a standards and assessments review and development committee. This administrative regulation incorporates by reference the Kentucky Academic Standards for Social Studies, which contain the general courses of study and academic content standards of social studies, for use in Kentucky's common schools.

Section 1. Before graduating from a Kentucky public high school, a student shall meet the minimum content requirements established in the Kentucky Academic Standards for Social Studies.

Section 2. Incorporation by Reference. (1) The "Kentucky Academic Standards for**[~~Reading and~~]** Social Studies", **April[~~February~~]** 2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, 5th floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

WAYNE D. LEWIS, Commissioner
HAL HEINER, Chairperson

APPROVED BY AGENCY: April 12, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

CONTACT PERSON: Deanna Durrett, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Deanna Durrett

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation fulfills the requirements of KRS 158.6453 and sets forth the minimum content requirements to be met by a student per the Kentucky Academic Standards for Social Studies.

(b) The necessity of this administrative regulation: KRS 158.6453 required the Kentucky Department of Education (KDE) to implement a comprehensive process for the review of academic standards and assessment. This regulation fulfills the requirements of KRS 158.6453.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to KRS 158.6453 as it implements a process for the review Kentucky's academic standards and the alignment of corresponding assessments with the advice of a review and development committee assigned to focus on social studies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation conforms to KRS 158.6453 and will assist in its administration as it implements a process for the review of Kentucky's academic standards and the alignment of corresponding assessments with the advice of a review and development committee assigned to focus on social studies.

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

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Those affected by this regulation include: all public schools, school districts, school councils and the Kentucky Department of Education as it will provide support related to 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 standards outlined in 704 KAR 8:060 are the revised standards for social studies. As this regulation also includes the minimum content requirements for graduation related to social studies, all public schools, school districts and school-based decision making councils are required to follow the standards outlined in the document incorporated by reference in 704 KAR 8:060. Curriculum and content decisions are made at the local level and will be expected to follow these outlined standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Schools and Districts: A 2008 study published by LRC called The Costs of College and High School Textbooks in Kentucky indicated an average text cost of $50 per textbook. While textbooks contain teacher materials, this cost does not account for additional expenses related to teacher training and/or local efforts to align curricula. An estimated cost per class for instructional materials: $50 x 100 students per grade level. There also will be costs associated for local curricula development and teacher professional learning to support implementation of new curricula. Estimated teacher time for curriculum development/alignment (in a school with only 1 teacher per grade): $4,000 (5 days for alignment work x 4 teachers x $200/day). Estimated costs related to professional learning: $25,000 x # grades = $X per year.
Kentucky Department of Education: In the revisionary process of social studies standards required by statute, the Department spent $72129.36 as of the date of filing in the development of the standards in addition to staff time. Additional staff time will be needed as the regulation moves through the legislative and implementation processes.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The compliance of public schools, school districts and school councils will ensure that each student will be qualified for graduation as they will have met the minimum content requirements for social studies. Graduation rates are used as part of each school's accountability model and are reported on each school's report card.

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

(a) Initially: The Department spent $72129.36 administrative costs for the development of the social studies standards that are incorporated by reference in 704 KAR 8:060 to be compliant with KRS 158.6453, as well as staff time to oversee its administration.

(b) On a continuing basis: Additional staff time will be needed as the regulation moves through the legislative and implementation process.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State funds have been used to develop these standards.

(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: Some of the state funds cut from the 2018-20 budget were used in the past by the Kentucky Department of Education to implement new standards using the research-based model of leadership networks and provide support to districts as they implement new standards. However, without those funds, much of the implementation support provided in the past will not be available.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: 704 KAR 8:060 does not establish any fee directly nor indirectly increased any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and local education agencies.

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 education agencies and the Kentucky Department of Education.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453 required the Kentucky Department of Education (KDE) to implement a comprehensive process for the review of academic standards and assessment. This regulation fulfills the requirements of KRS 158.6453.

(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.

(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.

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

Schools and Districts: A 2008 study published by LRC called The Costs of College and High School Textbooks in Kentucky indicated an average text cost of $50 per textbook. While textbooks contain teacher materials, this cost does not account for additional expenses related to teacher training and/or local efforts to align curricula. An estimated cost per class for instructional materials: $50 x 100 students per grade level. There also will be costs associated for local curricula development and teacher professional learning to support implementation of new curricula. Estimated teacher time for curriculum development/alignment (in a school with only 1 teacher per grade): $4,000 (5 days for alignment work x 4 teachers x $200/day). Estimated costs related to professional learning: $25,000 x # grades = $X per year. Typically, school districts would have used professional development funds to provide professional development for teachers to review and revise curriculum to incorporate new standards. However, HB 200 (2018) eliminated those funds; therefore, other district funds will need to be used to implement new standards.

Kentucky Department of Education: In the revisionary process of social studies standards required by statute, the Department spent $72129.36 as of date of filing in the development of the standards in addition to staff time. Additional staff time will be needed as the regulation moves through the legislative and implementation processes. The Kentucky Department of Education used state funds to conduct the revision and implementation process. Additional staff time will be impacted through implementation.

(d) How much will it cost to administer this program for subsequent years? Once curriculum documents are revised, implementation cost will decrease.

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 (+/-):
Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Behavioral Health, Developmental and Intellectual Disabilities
Division of Behavioral Health
(Amended After Comments)

908 KAR 1:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities.[~~Licensing procedures and standards for persons and agencies operating nonmedical - and nonhospital- based alcohol and other drug abuse treatment programs.~~]

RELATES TO: KRS 13B.050, 13B.125, 17.500, 209.030, 214.181, 214.625, 216B.020(2), 222.003, 222.005, 222.231, 222.271, 222.441, 222.462, 222.990, 309.080, 309.0831, 309.130, 311.571, **311.840(3),** 314.011, 319.050, 319.056, 319.064, 335.080, 335.100, 335.300, 335.500, 422.317, 439.3401, 620.030, 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d-2–1320d-8, 42 U.S.C. 290ee-3[~~222.003(1), 222.005, 222.231, 222.990~~]

STATUTORY AUTHORITY: KRS 222.231(2)[~~194A.050, 222.231, EO 2004-726~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 222.231(2) requires the cabinet to promulgate administrative regulations to establish requirements and standards for treatment programs, including licensing fees, application, procedures for renewal and revocation, procedures for program evaluation, and minimum operating, training, and maintenance of patient records standards. This administrative regulation establishes licensing procedures, fees, responsibilities of the governing authority, quality assurance and utilization review, policies and procedures, staff qualifications and training, client rights, client records, assessment, treatment planning, and adverse action procedures for outpatient and residential alcohol and other drug treatment entities.[~~EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and Family and placed the Department for Behavioral Health, Developmental and Intellectual Disabilities within the cabinet. KRS 194A.050 and 222.231 require the cabinet to establish requirements and standards for licensing a person or an agency and approving nonmedical and nonhospital based alcohol and other drug abuse treatment programs. KRS 194A.050 places the Behavioral Health, Developmental and Intellectual Disabilities Services and its programs under the Cabinet for Health and Family Services. This administrative regulation establishes licensure requirements which establish minimum standards for a person or an agency operating a nonmedical or nonhospital based alcohol and other drug abuse detoxification, residential, residential transitional living, outpatient, or intensive outpatient program.~~]

Section 1. Definitions. (1) "Agency" is defined by KRS 222.005(2).

(2) "Adverse action" means action taken by the cabinet to deny, suspend, or revoke an alcohol and other drug treatment entity's license to operate.

(3) "Alcohol and other drug treatment entity" or "AODE" means a nonhospital-based agency owned by an individual or entity that provides one (1) or more of the following services or operates one (1) or more of the following programs:

(a) Outpatient treatment services;

(b) Intensive outpatient services;

(c) Partial hospitalization;

(d) Withdrawal management services, including medication-assisted treatment;

(e) A non-physician owned facility that employs or has an affiliation with a physician or advanced practice registered nurse

who provides office-based opiate treatment services to fifty (50) percent or more of the facility's patients;

(f) A narcotic treatment program (NTP) utilizing methadone**,[~~or~~]** buprenorphine**, or other FDA-approved drug** formulations;

(g) A residential treatment program;

(h) A family residential program;

(j) A residential transitional living program; or

(i) An adolescent residential program.

(4) "Cabinet" is defined by KRS 222.005(4).

(5) "Case management" means a collaborative process of assessment, planning, facilitation, care coordination, evaluation, and advocacy for options and services to meet a client's and his or her family's needs through communication and available resources to promote quality, cost-effective outcomes.

(6) "Co-occurring disorder" means concurrent substance use disorder and mental health disorder and shall not carry implication as to:

(a) Which disorder is primary and which secondary;

(b) Which disorder occurred first; or

(c) Whether one disorder caused the other.

(7) "Outpatient service" means an organized nonresidential service in which addiction and mental health treatment personnel provide professionally directed evaluation and treatment for substance-related, addictive, and mental disorders.

(8) "Residential" means a setting that provides twenty-four (24) hour structure and support in which addiction and mental health treatment personnel provide organized and intensive individual and group therapeutic activities to strengthen a client's recovery skills.

(9) "Significant financial interest" means lawful ownership of an AODE, whether by share, contribution, or otherwise in an amount equal to or greater than twenty-five (25) percent of total ownership of the AODE.

Section 2. Licensure Application and Fees. (1) Unless exempt in accordance with subsection (2) of this section, any person, organization, corporation, community mental health center, or driving under the influence program planning to operate an outpatient or residential AODE shall submit the following to the cabinet:

(a) A completed Application for License to Operate a Nonhospital-based Alcohol and Other Drug Treatment Entity (AODE) and any required documentation;

(b) A licensure fee of $500; and

(c) A fee of eighty (80) dollars per outpatient AODE extension site that is:

1. Separate from the outpatient parent facility; and

2. Not located in a school or other community-based setting that is not operated by the outpatient AODE.

(2) The following settings shall be exempt from licensure as an AODE:

(a) A program or activity of a voluntary self-help organization or community group exempt in accordance with KRS 222.003(1) or (2);

(b) A licensed chemical dependency treatment service exempt in accordance with KRS 222.231(1);

(c) A department, agency, or institution of the federal government exempt in accordance with KRS 222.231(1);

(d) A federally certified rural health clinic or a federally qualified health center that provides services to patients with behavioral health or psychiatric conditions, including substance use disorder;

(e) The private office or clinic of a practitioner in accordance with KRS 216B.020(2);

(f) A licensed psychiatric residential treatment facility that provides outpatient behavioral health services to individuals who are age twenty-one (21) or younger and have been diagnosed with substance use disorder; or

(g) A residential crisis stabilization unit licensed in accordance with 902 KAR 20:440.

(3) An outpatient or residential AODE program shall not admit clients until the program has obtained a license from the cabinet to operate the specific modality or modalities of treatment referenced on its application.

(4) An entity shall be subject to penalties in accordance with KRS 222.990(2) if the program operates a private facility without obtaining licensure as required by KRS 222.231(1).

(5) Once licensed, an outpatient or residential AODE shall submit a completed Application for License to Operate a Nonhospital-based Alcohol and Other Drug Treatment Entity (AODE) accompanied by the same licensure fee identified in subjection (1)(b) and (c) of this section to the cabinet annually for license renewal.

(6) Extension site locations shall not be allowed for the following levels of care:

(a) A residential AODE program that operates in accordance with this administrative regulation and 902 KAR 1:372;

(b) A non-physician owned facility that provides office-based opiate treatment services in accordance with this administrative regulation and 902 KAR 1:374, Section 6; or

(c) An NTP that operates in accordance with this administrative regulation and 902 KAR 1:374, Section 7.

Section 3. Licenses and Authority to Enter Upon Premises. (1) A license shall be conspicuously posted in a public area of the outpatient or residential AODE at all times.

(2) If more than one (1) AODE operates at the same location, each AODE shall maintain a separate organizational identity by:

(a) Conspicuously posting a sign in a public area showing the name of the AODE;

(b) Using a separate logo or letterhead on written materials;

(c) Maintaining client records in a separate and secure cabinet; and

(d) Providing treatment services separate from another AODE located at the same location.

(3) A survey visit or complaint investigation by cabinet staff shall be unannounced.

(4) **An[~~A non-accredited~~]** outpatient or residential AODE shall be subject to an annual survey visit.

(5)**[~~An outpatient or residential AODE that provides the cabinet with documentation that the AODE is fully accredited by the Joint Commission, Commission on Accreditation of Rehabilitation Facilities, Council on Accreditation, or other nationally recognized accrediting organization with comparable standards shall be subject to an on-site survey visit at least once every two (2) years.~~**

~~(6)~~] Nothing in this administrative regulation shall prevent the cabinet from:

(a) Conducting an investigation related to a complaint; or

(b) Making an on-site survey of a fully accredited AODE more often than once every two (2) years if the cabinet deems necessary.

(6)[~~(7)~~] For outpatient AODE programs operating an NTP, unannounced monitoring visits may:

(a) Be conducted more frequently; and

(b) Occur in conjunction with the Center for Substance Abuse Treatment (CSAT) and the Drug Enforcement Administration (DEA).

(7)[~~(8)~~] (a) A representative of the cabinet shall have access to the AODE during business hours.

(b) An applicant for licensure or a current licensee shall not deny access to a representative of the cabinet, after proper identification, to make an inspection for determining compliance with the licensure requirements under:

1. 908 KAR 1:370;

2. 908 KAR 1:372; or

3. 908 KAR 1:374.

(c)1. Denial of access, including any effort to delay, interfere with, or obstruct an effort by a representative of the cabinet to enter the AODE, or deny access to records relevant to the inspection shall result in disciplinary action, including denial, revocation, modification, or suspension of the AODE's license.

2. Denial, revocation, modification, or suspension of an AODE's license shall be subject to appeal in accordance with KRS 222.231(6).

(d) An inspection of an AODE shall be conducted as follows:

1. The inspection shall be made at any time during the licensee's hours of operation;

2. The inspection shall be limited to ensure compliance with the standards set forth in 908 KAR 1:370, 908 KAR 1:372 or 908 KAR 1:374, and KRS Chapter 222; and

3. The inspection, if based on a complaint or a follow-up visit, shall not be limited in scope to the basis of the complaint or the implementation of a plan of correction.

Section 4. Change of Status. (1) Name change.

(a) An outpatient or residential AODE shall:

1. Notify the cabinet in writing within ten (10) calendar days of the effective date of a change in the facility's name; and

2. Submit a processing fee of twenty-five (25) dollars.

(b) The cabinet shall issue a new license for the remainder of the licensure period unless the AODE is under investigation that may result in a negative licensure action in accordance with Section 20 of this administrative regulation.

(2) Change of location. An AODE shall not change the location where a program is operated, including a change in an outpatient extension site's location, until an Application for Licensure to Operate an Alcohol or Drug Treatment (AODE) accompanied by a processing fee of eighty (80) dollars is filed with the cabinet.

(3) Change of ownership.

(a) The new owner of an AODE shall submit to the cabinet an Application for License to Operate a Nonhospital-based Alcohol and Other Drug Treatment Entity (AODE) accompanied by a fee of $500 within ten (10) calendar days of the effective date of the ownership change.

(b) A change of ownership shall be deemed to occur if more than twenty-five (25) percent of an existing AODE or capital stock or voting rights of a corporation is purchased, leased, or otherwise acquired by one (1) person from another.

(c) An individual, shareholder, or legal entity shall not acquire a significant financial interest in an AODE if that individual, shareholder, or legal entity previously held a significant financial interest in a licensed facility that had its license or certificate to operate denied, suspended, revoked, or voluntarily relinquished as the result of an investigation or adverse action that placed patients, residents, or clients at risk of death or serious harm within the preceding seven (7) years.

(4) Voluntary closure. If an outpatient or residential AODE voluntarily ceases to operate, the AODE shall notify the cabinet in writing within ten (10) calendar days of closure.

Section 5. Violations. (1) The cabinet shall notify an outpatient or residential AODE in writing of a regulatory violation identified during an inspection.

(2) The outpatient or residential AODE shall submit to the cabinet, within ten (10) calendar days of the notice, a written plan for the correction of the regulatory violation.

(3) The plan of correction shall be signed by the AODE's administrator, the licensee, or a person designated by the licensee and shall specify:

(a) The date by which the violation shall be corrected;

(b) The specific measures utilized to correct the violation; and

(c) The specific measures utilized to ensure the violation will not recur.

(4) The cabinet shall review the plan of correction and notify the AODE in writing of the decision to:

(a) Accept the plan;

(b) Not accept the plan; or

(c) Deny, suspend, or revoke the license for a substantial regulatory violation in accordance with KRS 222.231(6).

(5) The notice specified in subsection (4)(b) of this section shall:

(a) State the specific reasons the plan is unacceptable; and

(b) Require an amended plan of correction within ten (10) calendar days of receipt of the notice by the AODE.

(6) The cabinet shall review the amended plan of correction and notify the AODE in writing of the decision to:

(a) Accept the plan;

(b) Deny, suspend, or revoke the license for a substantial regulatory violation in accordance with KRS 222.231(6); or

(c) Require the AODE to submit an acceptable plan of correction.

(7) An AODE that fails to submit an acceptable amended plan of correction may be notified that the license will be denied, suspended, or revoked in accordance with KRS 222.231(6).

Section 6. Governing Authority. (1) An outpatient or residential AODE shall have a governing authority that shall be legally responsible for the management, operation, and financial viability of the AODE.

(2) The governing authority shall:

(a) Establish the AODE's mission and purpose;

(b) Ensure that the AODE is operating in accordance with its mission and in the case of a non-profit, the purpose for which it was granted tax-exemption;

(c) Appoint an administrator who shall:

1. Be principally responsible for the day-to-day operation of the AODE; and

2. Ensure that information is provided in response to a request by the cabinet for data collected in accordance with KRS 222.462(2)(b);

(d) Establish a client fee schedule;

(e) Ensure that the client fee schedule is posted in a public area of the outpatient or residential AODE;

(f) Maintain financial records regarding the assessment and payment of client fees;

(g) Oversee the implementation of policies and procedures, and ensure that they are available to all personnel and maintained **electronically or in hard copy** at the AODE's administrative office; and

(f) Ensure that an AODE's policies and procedures are reviewed every two (2) years and revised as needed.

Section 7. Quality Assurance and Utilization Review. (1) An outpatient or residential AODE shall have a quality assurance and utilization review program designed to:

(a) Enhance treatment and care through the ongoing objective assessment of services provided, including the correction of identified problems; and

(b) Provide an effective mechanism for review and evaluation of the service needs of clients.

(2) An outpatient or residential AODE shall have a utilization review team that shall:

(a) Be made up of a representative sample of the AODE's clinical staff responsible for providing services;

(b) Assess the appropriateness and clinical necessity of client admissions;

(c) Evaluate the need for continuing services immediately upon a change in a client's service needs or a change in the client's condition to ensure that proper arrangements have been made for:

1. Discharge;

2. Transfer; or

3. Referral to another service provider, if appropriate; and

(d) Submit a written record of findings related to inappropriate patterns of service accompanied by recommended action for correcting a problem to the administrator or other individual with overall responsibility for the program's treatment services.

Section 8. Co-occurring Services. (1) An outpatient or residential AODE shall:

(a) Screen for co-occurring disorders; and

(b) Treat or refer a client in need of co-occurring services.

(2) An outpatient or residential AODE that provides substance use disorder treatment to clients diagnosed with a co-occurring disorder shall have clearly written policies and procedures that:

(a) Govern the integrated treatment of substance use and mental health treatment, which shall include screening, assessment, diagnosis, and service provision;

(b) Allow for the use of psychiatric medication when indicated;

(c) Include developing and maintaining affiliation agreements, case consultation, and a referral mechanism to mental health treatment services in order to facilitate the provision of integrated treatment services; and

(d) Include the qualifications of clinical staff responsible for

screening, assessing, diagnosing, and treating clients with co-occurring disorders as follows:

1. Only licensed individuals whose scope of practice allows them to render a diagnosis for both mental health disorder and substance use disorder may assess and diagnose clients with co-occurring disorders; and

2. The AODE shall ensure that clinical supervision is provided by staff possessing clinical credentials necessary to provide clinical supervision to any staff person who renders treatment and services to clients diagnosed with co-occurring disorders.

Section 9. Implementation of Policies and Procedures. (1) An outpatient or residential AODE shall have written policies and procedures to:

(a) Establish a system for responding to an:

1. Accident or injury that requires hospitalization or results in death; or

2. Incident that involves fire damage, a natural disaster, or threat to security that substantially interrupts the delivery of services;

(b) Document the accident, injury, or incident in an incident file maintained **electronically or in hard copy** at the AODE's administrative office; and

(c) Report an incident, injury, or accident to the:

1. AODE's administrator;

2. Parent or guardian of a client under the age of eighteen (18); and

3. Cabinet for Health and Family Services if the report is required by:

a. KRS 620.030 in the case of suspected child dependency, abuse, or neglect; or

b. KRS 209.030 in the case of suspected adult abuse, neglect, or exploitation.

(2) An outpatient or residential AODE shall have a written emergency plan for responding to a disaster at the facility, including safety procedures in the event of a fire, severe weather, or other threatening situation as follows:

(a) The emergency plan shall be conspicuously posted in a public area of each AODE;

(b) A copy of the emergency plan shall be provided to all personnel;

(c) The AODE shall provide training for all personnel on how to:

1. Report a fire;

2. Extinguish a small fire; and

3. Evacuate a building; and

(d) The AODE shall maintain a written record of practiced fire drills.

(3)(a) An outpatient or residential AODE shall have written policies and procedures that:

1. Establish a system to effectively respond to problems associated with domestic violence among clients served in the AODE; and

2. Include the requirements established in paragraphs (b), (c), and (d) of this section.

(b) The AODE shall provide training for clinical staff on the dynamics of domestic violence, including:

1. The effect of domestic violence on adult and child victims;

2. Legal remedies for protection;

3. Safety and risk issues;

4. Available community services;

5. Victim services; and

6. Applicable reporting requirements.

(c) The AODE shall assess a client with a history of domestic violence for current safety risks.

(d) The AODE shall implement measures to reduce safety risks to:

1. A client with a history of domestic violence;

2. Other clients; and

3. Staff.

(4) An outpatient or residential AODE shall have written policies and procedures that include:

(a) A written description of each program, including philosophy, mission statement, goals, objectives, and staffing;

(b) Admission, readmission, discharge, and transfer criteria; and

(c) Procedures for making a referral within the AODE or to another service provider, if appropriate.

(5) An outpatient or residential AODE shall have written policies and procedures for implementation of a language access plan to:

(a) Address reasonable accommodation for communication access services for a client who:

1. Has a visual impairment;

2. Is deaf or hard of hearing;

3. Is unable to comprehend or communicate due to a language barrier; or

4. Has a different linguistic background;

(b) Provide for appropriate auxiliary aids and services, including assistive listening devices, realtime captioning, or sign language interpreters, if needed;

(c) Ensure that programs and activities provided through electronic and information technology are accessible to a client with a disability; and

(d) Allow for language assistance services, including oral language assistance or written translation for a client with a different linguistic background.

(6) An outpatient or residential AODE shall have a written personnel policy that includes a:

(a) Job description and qualifications for each personnel category, including duties and reporting supervisor;

(b) Description of the duties and supervision of volunteers and student interns; and

(c) Written plan that describes a coordinated program for staff education, including:

1. Orientation of personnel to the policies and objectives of the organization;

2. On-the-job training, if necessary; and

3. Orientation and basic education about the prevalence of trauma, including training that:

a. Covers the dynamics of retraumatization;

b. Helps create a trauma-informed environment to ensure that all staff are knowledgeable in evidence-based practices that avoid institutional processes that may retraumatize a client with a history of trauma; and

c. Assists in the implementation of trauma-informed practices across domains and standards, which may include:

(i) Admissions;

(ii) Environmental standards;

(iii) Screening and assessment processes;

(iv) Referrals to other services;

(v) Treatment planning;

(vi) Confidentiality;

(vii) Ethics;

(viii) Overdose prevention; and

(ix) Discharge.

(7) An outpatient or residential AODE shall have written policies and procedures governing client grievances, including:

(a) Identification of an AODE ombudsman;

(b) A process for filing a written client grievance;

(c) An appeals process with time frames for filing and responding to a grievance in writing;

(d) Protection of a client from interference, coercion, discrimination, or reprisal; and

(e) Conspicuous posting of the grievance procedures in a public area to inform a client of:

1. His or her right to file a grievance;

2. The process for filing a grievance; and

3. The address and telephone number of the AODE's and cabinet's ombudsman.

(8) If alcohol or drug testing is conducted as part of assessment, treatment, or discharge, an outpatient or residential AODE shall have written policies and procedures that outline the screening process and the indications for testing positive.

(9)(a) An AODE shall have a written policy to address the:

1. Use and misuse of alcohol or illegal drugs; and

2. Misuse of prescription drugs.

(b) The policy shall apply to all clients and their visitors while on the campus of the program.

(10) An AODE that provides services to clients under age eighteen (18) shall have written policies and procedures to ensure that:

(a) Services and educational materials are developmentally appropriate; and

(b) The client's family is involved in his or her treatment to the extent possible and appropriate with the written consent of a client.

Section 10. Qualifications and Responsibilities of the Clinical Services Supervisor.

(1) A clinical services supervisor hired by an AODE shall complete:

(a) Twelve (12) hours of specialized training in clinical supervision within six (6) months from the date of assuming the position of supervisor;

(b) At least three (3) hours of training in clinical supervision annually; and

(c) At least ten (10) hours of training in alcohol and other drug abuse counseling annually.

(2) The clinical services supervisor:

(a) May provide supervision at more than one (1) AODE facility;

(b) Shall not supervise a spouse, child, stepchild, sibling, parent, stepparent, grandparent, grandchild, aunt, uncle, niece, nephew, or in-law;

(c) Shall be responsible for all treatment services provided by the AODE;

(d) Shall ensure that the client treatment plan required by Section 19 of this administrative regulation addresses both of the client's co-occurring disorders, if applicable; and

(e) Shall maintain documentation of each clinical supervisory session with each clinician under supervision, including the:

1. Date;

2. Length of the session; and

3. Content of the supervision.

(3) The clinical services supervisor shall be:

(a) A certified alcohol and drug counselor (CADC) as defined by KRS 309.080(2) with 4,000 hours of clinical work experience post certification;

(b) A licensed clinical alcohol and drug counselor (LCADC) as defined by KRS 309.080(4); or

(c) An individual who meets the training requirements of subsection (4) of this section and is licensed or certified as one (1) of the following:

1. Physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571, or a medical officer of the government of the United States while engaged in the performance of official duties;

2. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

3. Psychologist licensed and practicing in accordance with KRS 319.050;

4. Certified psychologist with autonomous functioning or a licensed psychological practitioner practicing in accordance with KRS 319.056;

5. Person currently authorized to use the title of "certified psychologist" under KRS 319.056(3) and has 6,000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology;

6. Psychological associate practicing in accordance with KRS 319.064 and has 6,000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology;

7. Clinical social worker licensed and practicing in accordance with KRS 335.100;

8. Social worker certified and practicing in accordance with KRS 335.080 and has 6,000 hours of postcertification clinical practice in psychiatric social work;

9. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in psychiatric nursing from an accredited college or university and 6,000 hours of clinical experience in psychiatric nursing;

10. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a bachelor's degree in nursing from an accredited college or university, who is certified as a psychiatric and mental health nurse by the American Nurses Association, and who has 6,000 hours of clinical experience in psychiatric nursing;

11. Marriage and family therapist licensed and practicing in accordance with KRS 335.300;

12. Professional clinical counselor licensed and practicing in accordance with KRS 335.500; or

13. Licensed professional art therapist as defined by KRS 309.130(2).

(4) A clinical services supervisor who is a licensed or certified health care professional as described by subsection (3)(c) of this section shall:

1. Complete eighty (80) hours of training in alcohol and other drug abuse counseling within:

a. Four (4) years immediately prior to the date of assuming responsibility as a clinical services supervisor in the AODE; or

b. Two (2) years immediately after assuming responsibility as a clinical services supervisor in the AODE; and

2. Have 4,000 hours of work experience in the alcohol and other drug treatment field post degree.

Section 11. Qualifications and Responsibilities of Clinicians. (1) An outpatient or residential AODE shall hire clinicians who:

(a) Shall be responsible for conducting assessments and treatment planning;

(b) Shall be responsible for leading counseling sessions; and

(c) May be responsible for providing case management.

(2) A clinician shall complete a minimum of ten (10) hours of training in alcohol and other drug abuse counseling annually.

(3) In addition to the annual training required by subsection (2) of this section, a clinician who provides case management shall complete twelve (12) hours of specialized training in case management within six (6) months from the date of assuming responsibility for case management services.

(4) A clinician shall be:

(a) An LCADC as defined by KRS 309.080(4);

(b) A CADC as defined by KRS 309.080(2);

(c) An individual who meets the training requirements of subsection (5) of this section and is licensed or certified as one (1) of the following:

1. Physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571, or a medical officer of the government of the United States while engaged in the performance of official duties;

2. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

3. Psychologist licensed and practicing in accordance with KRS 319.050;

4. Certified psychologist with autonomous functioning or a licensed psychological practitioner practicing in accordance with KRS 319.056;

5. Person currently authorized to use the title of certified psychologist in accordance with KRS 319.056(3);

6. Psychological associate practicing in accordance with KRS 319.064;

7. Clinical social worker licensed and practicing in accordance with KRS 335.100;

8. Social worker certified and practicing in accordance with KRS 335.080;

9. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in psychiatric nursing from an accredited college or university;

10. Registered nurse licensed by the Kentucky Board of

Nursing in accordance with KRS Chapter 314 with one (1) of the following combinations of education and work experience:

a. Bachelor of science in nursing from a four (4) year program from an accredited college or university and 2,000 hours of clinical work experience in the substance abuse or mental health field;

b. Diploma graduate in nursing from a three (3) year program and 4,000 hours of clinical work experience in the substance abuse or mental health field; or

c. Associate degree in nursing from a two (2) year program from an accredited college or university and 6,000 hours of clinical work experience in the substance abuse or mental health field;

11. Advanced practice registered nurse as defined by KRS 314.011(7);

12. Marriage and family therapist licensed and practicing in accordance with KRS 335.300;

13. Professional clinical counselor licensed and practicing in accordance with KRS 335.500;**[~~or~~]**

14. Licensed professional art therapist as defined by KRS 309.130(2); or

15. Physician assistant as defined by KRS 311.840(3); or

(d) An individual who has a bachelor's degree in any field from an accredited college or university and meets the following requirements:

1. Works under the supervision of a clinical services supervisor;

2. Receives at least four (4) hours of face-to-face clinical supervision monthly during at least two (2) supervisory meetings;

3. Meets the training requirements of subsection (5) of this section;

4. Has all treatment plans cosigned by the clinical services supervisor within ten (10) business days; and

5.**a.** Obtains temporary certification as an alcohol and drug counselor (TCADC) from the Kentucky Board of Alcohol and Drug Counselors within two (2) months of the date of employment as a clinician, if the clinician's bachelor's degree is in an area other than the field of human services**; or**

b. Was employed as a clinician by an AODE prior to the effective date of this administrative regulation and has maintained continuous employment as a clinician.

(5) A clinician as described by subsection (4)(c) or (d) of this subsection shall complete eighty (80) hours of training in alcohol and other drug abuse counseling within:

(a) Four (4) years immediately prior to the date of assuming responsibility as a clinician in the AODE; or

(b) Two (2) years immediately after assuming responsibility as a clinician in the AODE.

Section 12. Qualifications and Responsibilities of Case Managers. (1) A case manager employed by an outpatient or residential AODE shall:

(a)1. Have a bachelor's degree from an accredited college or university; or

2. Be a CADC as defined by KRS 309.080(2);

(b) Successfully complete a department-approved case management training within six (6) months of employment as a case manager; and

(c) Successfully complete **ten (10)[~~twenty (20)~~]** hours of continuing education in alcohol and other drug-relevant training annually.

(2) Case management services shall be based on the:

(a) Goals established in the client's clinical assessment; and

(b) Development of an individualized person-centered treatment plan that identifies the case management activities that support implementation of the plan.

(3) A case manager shall not exceed a case load size of thirty (30) unique clients.

Section 13. Peer Support Specialists. A peer support specialist employed by an outpatient or residential AODE shall:

(1) Complete six (6) hours of training in the area of substance use disorder annually;

(2) Attest in writing to at least one (1) year of recovery; and

(3)(a) Be a registered alcohol and drug peer support specialist in accordance with KRS 309.0831; or

(b) Meet the requirements of:

1. 908 KAR 2:220;

2. 908 KAR 2:230; or

3. 908 KAR 2:240.

Section 14. Personnel records. A personnel record shall be kept at the outpatient or residential AODE's administrative office on each staff member and contain the following information:

(1) Name and address;

(2) Verification of all training and experience, including licensure, certification, registration, or renewals;

(3) Verification of submission to the background check requirements of Section 15 of this administrative regulation;

(4) Annual performance appraisals; and

(5) Employee incident reports.

Section 15. Background checks. (1) All staff of an outpatient or residential AODE who have job duties that involve providing services to a client, or who may have one-on-one contact with a client shall:

(a) Have a criminal record check performed upon initial hire through the Administrative Office of the Courts or the Kentucky State Police; and

(b) Not have a criminal conviction, or plea of guilty, to a:

1. Sex crime as specified in KRS 17.500;

2. Criminal offense against a minor as specified in KRS 17.500; or

3. Felony offense related to neglect, physical abuse, sexual abuse, or exploitation of a child.

(2) An outpatient or residential AODE that provides services to clients under age eighteen (18) shall not employ as clinical personnel anyone listed on the central registry established by 922 KAR 1:470.

(a) If a central registry check has been submitted for an individual and is pending, the individual:

1. May be hired pending the results of the registry check; and

2. Shall not be left unsupervised with a client under eighteen (18) years of age.

(b) An employee shall be dismissed immediately if the results of the check show the individual is listed on the central registry.

(3) An outpatient or residential AODE shall perform annual criminal record checks as described in paragraph (a) of this subsection on a random sample of at least twenty-five (25) percent of all personnel.

Section 16. Client Rights. (1) An outpatient or residential AODE shall establish, implement, and conspicuously post written policies and procedures regarding the rights of clients.

(2) The notice of client rights shall include the address and telephone number of the:

(a) Cabinet's ombudsman; and

(b) AODE's ombudsman or personnel responsible for handling client grievances.

(3) A client shall not be unlawfully discriminated against in determining eligibility for a treatment program.

(4) During an outpatient or residential AODE's intake procedures, a client shall sign a statement that specifies that the client has the right to:

(a) Give informed consent to receive a service, in which case:

1. An adult shall sign an informed consent to receive a service; or

2. A client under age eighteen (18) who suffers from substance use disorder or a parent, caregiver, or person who has custodial control of a client under age eighteen (18) shall sign an informed consent for the client to receive a service in accordance with KRS 222.441;

(b) Have input into his or her treatment plan and be informed of the plan's content;

(c) Receive individualized treatment;

(d) File a grievance, recommendation, or opinion regarding the

services the client receives;

(e) Give informed written consent regarding participation in a research study, with the exception of a client under age eighteen (18) whose parent or guardian shall give informed written consent;

(f) Confidentiality of information in accordance with the following:

1. A federally-assisted AODE in accordance with 908 KAR 1:320; or

2. A nonfederally-assisted AODE in accordance with KRS 222.271(1);

(g) Request a written statement of charges for services and be informed of the policy for the assessment and payment of client fees;

(h) Be informed of the rules of client conduct, including the consequences for using alcohol or other drugs, or other infractions that may result in:

1. Further assessment;

2. Modification of the treatment approach;

3. Transfer to a higher intensity level of treatment; or

4. Disciplinary action or discharge, after review and consideration of alternative interventions, which shall be documented in the client's record with an explanation for any decision involving disciplinary action or discharge;

(i) Be treated with consideration, respect, and personal dignity;

(j) Review his or her client record in accordance with the AODE's policy; and

(k) Receive one (1) free copy of his or her client record in accordance with KRS 422.317.

(5) The statement of client rights shall be:

(a) Provided to the client;

(b) Provided to the client's parent, guardian, or other legal representative, in addition to the client, and upon consent of the client, if the client is under the age of eighteen (18) or incapacitated; and

(c) Read to the client or upon consent of the client, read to the client's parent, guardian, or other legal representative, if requested.

(6) A residential AODE providing twenty-four (24) hour care shall specify on the client rights statement that a client has the right to:

(a) Vote in a political election**, if age eighteen (18) or over**;

(b) Reasonable accommodations to afford privacy in bathing and toileting; and

(c) Privileges in accordance with KRS 222.271(2).

(7) An outpatient AODE that operates an NTP shall specify on the client rights statement that a client has the right to:

(a) Request a hearing, if the client is involuntarily discharged, so long as the hearing is requested within forty-eight (48) hours of receipt of written notice of discharge;

(b) Continued treatment pending the outcome of the hearing; and

(c) Representation at the hearing by an attorney or other person chosen by the client.

(8) If a client is restricted from exercising a client right because it is contraindicated by the client's physical or mental condition, there shall be documentation in the client record stating the reason for the restriction and the explanation given to the client.

Section 17. Client Records. (1) A client record shall be maintained for each individual receiving services.

(2) Each entry shall be signed and include the date the service was provided.

(3) All information regarding a client's human immunodeficiency virus status shall be kept confidential in accordance with KRS 214.181 and 214.625.

(4) Each client record shall contain:

(a) An identification sheet, including:

1. Client's name, address, age, gender, and marital status;

2. Expected source of payment; and

3. Referral source;

(b) Consent of appropriate family members or guardians for admission, evaluation, and treatment, if applicable;

(c) Application for admission, including intake information;

(d) A biopsychosocial assessment;

(e) Health status questionnaire or a copy of the record of a physical health examination;

(f) Consent form, fee agreement, and statement of client rights, each signed by the client;

(g) Client's treatment plan;

(h) Progress notes;

(i) Aftercare plan;

(j) Authorization for release of information, signed by the client; and

(k) Discharge summary.

(5) Ownership.

(a) Client records shall be the property of the AODE.

(b) The original client record shall not be removed from the AODE except by court order or subpoena.

(c) Copies of a client record or portions of the record may be used and disclosed in accordance with subsection (7) of this section.

(6) Retention of records. After a client's death or discharge, the completed client record shall be placed in an inactive file and:

(a) Retained for six (6) years; or

(b) Three (3) years after the client reaches the age of majority under state law, if a minor, whichever is the longer.

(7) Confidentiality and Security: Use and Disclosure.

(a) The AODE shall maintain the confidentiality and security of client records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law, including 42 U.S.C. 290 ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(b) The AODE may use and disclose client records in accordance with:

1. HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164; or

2. 42 U.S.C. 290 ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(c) An AODE may establish higher levels of confidentiality and security than required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or 42 U.S.C. 290 ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

Section 18. Client Assessment. (1) Except in a residential transitional living program where counseling services are not provided on-site, a**[~~licensed~~]** clinician **operating within the clinician's professional scope of practice** in an AODE shall complete a comprehensive biopsychosocial assessment of each client at the time of admission and document the following:

(a) Medical status;

(b) History of alcohol, tobacco, or other drug use, including any interventions;

(c) Acute intoxication and withdrawal potential;

(d) Pregnancy testing**, if medically indicated or requested**;

(e) Current or history of psychological problems or psychiatric disorders and treatment received, including:

1. Previous psychiatric admissions;

2. History of suicidal or homicidal ideation and attempts;

3. Outpatient psychiatric treatment; and

4. Psychotropic medications;

(f) Any legal proceedings involving the client;

(g) The client's family and relationships;

(h) The client's current living situation and any housing needs;

(i) Behavioral risk factors for human immunodeficiency virus (HIV) and Hepatitis, including the provision of information on HIV and AIDS to each client who shall also be offered testing for HIV infection;

(j) Readiness to change;

(k) Recreational interests;

(l) Cultural, ethnic, and spiritual beliefs or practices; and

(m) Employment and support, including assessment of the client's:

1. Employment status, current work or vocational skills, and

potential for improving those skills or developing new ones;

2. Educational status and skills;

3. Aptitudes, interests, and motivation;

4. Physical abilities, impairments, or disabilities;

5. Relationships with co-workers and supervisors; and

6. Current and prior work or school related problems, including problems related to substance use disorder.

(2) To ensure that a client is placed in the appropriate treatment facility, the client shall be assessed for a level of care determination based upon the most recent version of The American Society of Addiction Medicine (ASAM) Criteria.

(3) Each biopsychosocial assessment shall be documented by the outpatient or residential AODE in the client record and include the following:

(a) The client's diagnosis as made by **a clinician operating within the clinician's professional scope of practice[~~appropriately licensed treatment staff~~]**, in accordance with the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) for alcohol, tobacco, and other drug use;

(b) Screening for other co-occurring disorders;

(c) The ASAM level of care determination; and

(d) Referral for a full diagnostic evaluation and treatment planning, if appropriate.

(4) If the biopsychosocial assessment indicates that a client should be referred to another treatment program or level of care, the outpatient or residential AODE shall coordinate the client's referral to another program.

(5) If transfer to another facility or level of care is indicated, the outpatient or residential AODE shall provide**[~~interim~~]** services that are responsive at the client's current level of care until the transfer is made.

(6) A residential AODE shall ensure that a full physical examination is completed within seventy-two (72) hours of admission and includes:

(a) Certification by the examining physician or appropriate health care practitioner that the level of care needed by the client is available through the facility; and

(b) The results of the following laboratory tests and evaluations, subject to the client's written consent:

1. Blood work for chronic, incurable, or communicable diseases or conditions as indicated by the client's medical history and the health care practitioner's evaluation;

2. Serologic tests for syphilis, smears, and cultures for gonorrhea and other sexually transmitted diseases, as medically indicated;

3. Routine urinalysis, including pregnancy testing **if medically indicated or requested**;

4. HIV antibody testing, as medically indicated, for which the residential AODE shall obtain a separate written consent and ensure that:

a. Each client receives HIV pre-test counseling and post-test counseling if the client elects to be tested; and

b. If HIV testing is performed, the residential AODE shall:

(i) Report positive results and maintain client confidentiality in accordance with KRS 214.645; and

(ii) Meet the registration and testing requirements of KRS 214.625(7);

5. Testing for Hepatitis A, Hepatitis B, and Hepatitis C, as medically indicated; and

6. Tuberculosis screening, testing, and treatment, as medically indicated.

Section 19. Client Treatment Planning. (1) An outpatient or residential AODE shall establish a treatment plan for each client that:

(a) Is specific, measurable, and outcomes-focused;

(b) Is based on the biopsychosocial assessment made of the client in accordance with Section 18 of this administrative regulation;

(c) Is initiated upon the client's admission;

(d) If applicable, includes pharmacological treatment modalities to manage opioid use disorder;

(e) Is entered into the client's record within:

1. Seventy-two (72) hours following the client's admission to a residential AODE program; and

2. Thirty (30) days following the client's admission to an outpatient AODE program;

(f) Is reviewed at least:

1. Every two (2) weeks in a residential AODE program;

2. Quarterly in an outpatient AODE program providing intensive outpatient services or partial hospitalization; and

3. Every **thirty (30) days[~~six (6) months~~]** for:

a. Outpatient treatment services;

b. Ambulatory withdrawal management services;

c. Office-based opiate treatment services; or

d. A narcotic treatment program;**[~~and~~]**

(g) **Is rewritten every six (6) months; and**

(h) Is revised as necessary based on a change in treatment needs.

(2) Each client shall be continually assessed by the outpatient or residential AODE using the most recent version of the ASAM criteria to assess level of care and needs.

(3) Problems, strengths, and needs identified in the placement, assessment, and treatment planning shall be addressed:

(a) Directly by the outpatient or residential AODE; or

(b) Through referral to appropriate services.

(4) An outpatient or residential AODE shall provide the following services in accordance with a client's treatment plan:

(a) Orders for medication, medical treatment, and other services, including the type and frequency of contact, if applicable;

(b) Treatment for substance use disorder, including a plan to:

1. Reduce symptoms and severity; and

2. Improve treatment outcomes;

(c) Integrated treatment of co-occurring disorders, either on-site or through the coordination of treatment services with an appropriate mental health facility, if applicable;

(d) Vocational and educational services if needed, either on-site or by referral to community resources;

(e) Opportunities for the client to voluntarily participate in support group meetings during treatment; and

(f) Family supports, recovery supports, spiritual, housing, and social support services as needed.

(5) An outpatient or residential AODE shall document in the client's record:

(a) Evidence of client participation in the development and implementation of the treatment plan;

(b) The staff responsible for implementation of the treatment plan;

(c) Dated signatures of the client and participating multidisciplinary team members;

(d) Long-term and short-term goals with timeframes for achievement;

(e) The assessment measures for determining the effectiveness of, and client satisfaction with, treatment or services including assessments of client adherence to and engagement with treatment and recovery support services;

(f) The time intervals for review of the client's response to treatment or services;

(g) Discharge plans; and

(h) Transfer plans, if applicable.

(6) Practitioners in each of the services providing care to a client shall participate in the development of the treatment plan relative to the services the practitioner shall provide.

(7) The client and the client's family, **with consent from the client,** if**[~~indicated and~~]** considered appropriate, shall participate in the development of the client treatment plan, which shall include an aftercare plan to prepare the client for life after leaving rehabilitation.

(8) If a physician or other**[~~licensed~~]** clinician documents in the client's clinical record that the client's participation in the development of the client treatment plan is medically contraindicated, a member of the multidisciplinary team providing services to the client shall:

(a) Review the client's treatment plan with the client prior to implementation; and

(b) Inform the client's family or legal guardian of the treatment

plan **with consent of the client**.

(9) If the family or legal guardian of a client does not agree to participate in the treatment planning, the outpatient or residential AODE shall document the:

(a) Attempt to engage the family or legal guardian**, with the client's consent,** in the treatment planning process; and

(b) Refusal to participate.

(10) The multidisciplinary team shall review the treatment plan and client treatment progress at least every thirty (30) days with the review and any revisions documented in the client's clinical record.

(11) Any revision of the treatment plan shall be based upon:

(a) The client's response to the care provided;

(b) The client's abilities and disabilities; and

(c) Each team member's continuing reassessment of services rendered.

(12) Results of random drug and alcohol screening shall be incorporated into therapeutic interventions and the treatment planning process.

Section 20. Denial, Emergency Suspension, and Revocation. (1) The cabinet shall deny or revoke a license if it finds that:

(a) There has been substantial failure in accordance with KRS 222.231(6) by the AODE to comply with the provisions of:

1. KRS Chapter 222; or

2. AODE licensure administrative regulations under 908 KAR Chapter 1;

(b) The AODE fails to submit an acceptable plan of correction or fails to submit an acceptable amended plan of correction within the timeframes required by Section 5(2) or (5)(b) of this administrative regulation;

(c) The AODE fails to comply with the annual renewal process;

(d) The AODE denies access to the cabinet in accordance with Section 3(7) of this administrative regulation;

(e) The AODE's certification as a driving under the influence program is denied, revoked, or voluntarily relinquished as the result of an investigation or adverse action that placed clients at risk of death or serious harm;

(f) An individual having a significant financial interest in the AODE has, within the seven (7) year period prior to the application date, had significant financial interest in a facility or service that was licensed or certified by the cabinet, and the license or certificate to operate was denied, suspended, revoked, or voluntarily relinquished as the result of an investigation or adverse action that placed patients, residents, or clients at risk of death or serious harm;

(g) An individual having significant financial interest in the AODE has been:

1. Previously discontinued or disqualified from participation in any governmental assistance program due to fraud or abuse of the program; or

2. The subject of disciplinary action taken against the individual by a professional licensing board for misconduct related to endangering a patient or client; or

(h) The cabinet finds that the applicant misrepresented or submitted false information on the application.

(2) For an outpatient AODE that operates an NTP, the cabinet shall deny or revoke a license in accordance with subsection (1) of this section or if it finds that:

(a) Take-home doses inconsistent with the dosage allowed by 908 KAR 1:374 Section 7 were issued without specific CSAT, DEA, or State Narcotic Authority (SNA) approval prior to issuance of the take-home doses;

(b) Take-home doses were outside the allowable difference between the labeled dosage of the approved controlled substance and the actual dosage as determined by the United States Pharmacopeia error rate;

(c) More than five (5) percent of the medical and dosing records reviewed are out of compliance with the requirements of 908 KAR 1:374 Section 7;

(d) There are discrepancies in the inventory reconciliation greater than five (5) percent;

(e) Clients were issued doses prior to completion of the intake procedures, including physical exam, except under SNA-approved circumstances;

(f) There is evidence in the client's record that the physician is not in control of the client's treatment;

(g) There is a pattern of issuing doses to clients before obtaining a signed consent to treatment with controlled substances; or

(h) There is a pattern of failing to perform the drug screening required by 908 KAR 1:374, Section 7.

(3) The denial or revocation of an AODE's license shall be issued in accordance with KRS 222.231(6).

(4) In accordance with KRS 222.231(6), the denial or revocation shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee submits a written request for a hearing within the thirty (30) day period.

(5) If an AODE requests a hearing in accordance with the timeframe established by KRS 222.231(6) and subsection (4) of this section, the cabinet shall:

(a) Appoint a hearing officer; and

(b) Proceed in accordance with KRS 13B.050 and KRS 222.231(7).

(6) Emergency action to suspend a license.

(a) The cabinet shall take emergency action in accordance with KRS 13B.125 to suspend an AODE's license if the cabinet has probable cause to believe that the continued operation of the AODE would constitute an immediate danger to the health, welfare, or safety of its clients.

(b) Notice of an emergency suspension shall identify the particular reasons for the action.

(c) If requested, an emergency hearing shall take place in accordance with the requirements of KRS 13B.125(3).

(d) The sole issue of the hearing shall be whether there is immediate danger.

(e) The decision shall be rendered in accordance with KRS 13B.125(4).

Section 21. Incorporation by Reference. (1) "Application for License to Operate a Nonhospital-based Alcohol and Other Drug Treatment Entity (AODE)", 12/2018 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Behavioral Health, Developmental and Intellectual Disabilities, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.[~~Section 1. Definitions. (1) "Accredited college or university" means an institution listed in the most recent college handbook published by the College Board.~~

~~(2) "Agency" is defined in KRS 222.005(2).~~

~~(3) "Alcohol and other drug abuse" is defined in KRS 222.005(12).~~

~~(4) "AODE" means a nonmedical and nonhospital based alcohol and other drug abuse treatment entity owned by an individual or agency which operates one (1) or more of the following programs: detoxification, residential, family residential, residential transitional living, outpatient, or intensive outpatient.~~

~~(5) "Cabinet" is defined in KRS 222.005(3) and means the Office of Inspector General, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621.~~

~~(6) "Case management" means an activity which brings services, agencies, resources, or people together to take actions toward the achievement of a client's goals.~~

~~(7) "Client" means an individual who receives treatment services in a licensed AODE.~~

~~(8) "Client record" means a file containing documentation of client services and other client data.~~

~~(9) "Clinical services supervisor" means an individual responsible for monitoring and directing assessment and treatment services and providing consultation and instruction to clinical staff.~~

~~(10) "Clinician" means an individual who conducts clinical assessments, is responsible for developing a client's treatment plan, leads counseling sessions and provides case management.~~

~~(11) "Counseling" means a relationship where a clinical staff~~

~~person helps a client mobilize resources to resolve problems and modify attitudes and behavior.~~

~~(12) "Daily living skills" means budgeting, meal planning, shopping, personal hygiene, housekeeping and using public transportation.~~

~~(13) "Detoxification program" means a supervised nonmedical withdrawal from an alcohol or other drug induced intoxication and an assessment of a client's need for further care resulting in referrals to appropriate resources.~~

~~(14) "Facility" means the physical area where a treatment program is operated by an AODE.~~

~~(15) "Family residential program" means an organized intensive set of therapeutic activities provided in an environment where the client resides twenty-four (24) hours a day with the client's children.~~

~~(16) "Federally-assisted" means a program that meets the requirements established in 42 C.F.R. 2.12(b).~~

~~(17) "Governing authority" means the person or agency in which the ultimate responsibility and authority for the operation of the AODE is vested.~~

~~(18) "Immediate danger" means a condition in the program which could or has caused death or serious physical injury.~~

~~(19) "Intake" means an administrative and initial assessment procedure completed at the time of a client's admission to a program.~~

~~(20) "Intensive outpatient program" means a structured comprehensive program of individual and group therapeutic activities delivered in a nonresidential setting, where a client is assisted in recovery from alcohol or other drug abuse on a scheduled and intense basis.~~

~~(21) "Mental status screening" means a screening of a client's current mental condition including the identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality.~~

~~(22) "Outpatient program" means individual and group therapeutic activities, assisting a client in recovery from alcohol or other drug abuse, provided in a nonresidential setting on a scheduled and unscheduled basis.~~

~~(23) "Program" is defined in KRS 222.005(10).~~

~~(24) "Recovery" means rehabilitation from alcohol or other drug abuse.~~

~~(25) "Registered dietitian" means an individual registered with the American Dietetic Association.~~

~~(26) "Residential transitional living program" means a therapeutic group setting, where counseling is provided either on site by staff or off site, and where a client resides twenty-four (24) hours a day, and makes a social and vocational adjustment prior to returning to family or independent living in the community.~~

~~(27) "Residential treatment program" means a set of organized and intensive individual and group therapeutic activities, provided in a twenty-four (24) hour setting, which assists a client in recovering from alcohol or other drug abuse.~~

~~(28) "Self-help group" means activities provided in a self-directed peer group setting, for a person recovering from alcohol or other drug abuse or the effects of another person's alcohol or other drug abuse, where support and direction in achieving or maintaining an alcohol and drug free life style or in learning to cope with a problem related to another person's alcohol or other drug abuse is provided.~~

~~(29) "Service" means a therapeutic activity provided in a program to meet a client's rehabilitation needs as they relate to the use of alcohol or other drugs.~~

~~(30) "Treatment" is defined in KRS 222.005(13).~~

~~(31) "Withdrawal" means the physiological readjustment of the body after an individual stops using alcohol or other drugs.~~

~~Section 2. Licensing Requirements. (1)(a) An AODE shall obtain a license from the cabinet before operating a program unless exempted under KRS 222.003(1) or 222.231(1).~~

~~(b) An AODE shall be issued:~~

~~1. One (1) license which shall apply to all facilities operated by the AODE where an outpatient or an intensive outpatient program is provided; and~~

~~2. A separate license for each facility where a twenty-four (24) hour program is operated.~~

~~(c) An AODE operating without a license, unless otherwise exempted, shall be subject to the penalties established in KRS 222.990(2).~~

~~(d) For a period of one (1) year following the effective date of this administrative regulation, an entity operating a nonmedical alcohol or other drug abuse treatment program under the authority of 908 KAR 1:010 through 908 KAR 1:260 or 902 KAR 20:091 may continue to operate the program until licensing as an AODE can be attained.~~

~~(2) If more than one (1) AODE operates at the same location, each AODE shall maintain a separate organizational identity by:~~

~~(a) Conspicuously posting a sign in a public area showing the name of the AODE;~~

~~(b) Utilizing a separate logo or letterhead on written materials;~~

~~(c) Maintaining client records in a separate and secure cabinet; and~~

~~(d) Conducting treatment services separate from another AODE located at the same location.~~

~~(3) The license shall:~~

~~(a) Be conspicuously posted in:~~

~~1. A public area of the AODE's administrative office; and~~

~~2. Each facility where a twenty-four (24) hour program is operated; and~~

~~(b) Specify the date the license expires.~~

~~(4) The cabinet shall make available to the public upon request a list of licensed AODEs, showing the location of each facility and the type of program operated at each facility.~~

~~(5) Application for licensure or relicensure. An Application for Licensure to Operate an Alcohol or Drug Treatment Entity (AODE) shall be obtained from and submitted to the cabinet and shall include:~~

~~(a) The AODE name, owner and mailing address;~~

~~(b) Facility address, phone number, hours of operation for each facility where a program is operated and the location where client records are kept; and~~

~~(c) Type of programs to be operated at each facility.~~

~~(6) An application for licensure shall be accompanied by a fee of $155 for each facility.~~

~~(7) An application for relicensure shall be accompanied by a fee of eighty (80) dollars for each facility.~~

~~(8) An application for licensure or relicensure shall be processed according to the following:~~

~~(a) The cabinet may conduct an unannounced on-site inspection of a facility;~~

~~(b) An AODE shall provide the cabinet access to each facility and to documents needed to complete an inspection during normal business hours;~~

~~(c) The cabinet shall notify an AODE in writing of the violation of a licensure standard identified during an inspection on Form L&R 18, Statement of Deficiencies and Plan of Correction; and~~

~~(d) An AODE shall, within ten (10) calendar days from receipt of the Form L&R 18, submit to the cabinet a written plan of correction on the Form L&R 18 specifying the corrective action to be taken and the date when each violation shall be corrected.~~

~~(9) The cabinet shall issue a license for a period of one (1) year to the owner of the AODE named in the application. The license shall be effective on the date approval is granted by the cabinet.~~

~~(10) Change in AODE status.~~

~~(a) Name change.~~

~~1. An AODE shall notify the cabinet in writing within ten (10) calendar days of the effective date of change.~~

~~2. An AODE shall submit a processing fee of twenty-five (25) dollars to the cabinet.~~

~~3. The cabinet shall issue a new license for the remainder of the licensure period unless the AODE is under investigation that may result in a negative licensure action pursuant to subsection (12) of this section.~~

~~(b) Change of location. An AODE shall not change the location where a program is operated until an Application for Licensure to Operate an Alcohol or Drug Treatment (AODE) accompanied by a~~

~~fee of eighty (80) dollars is filed with the cabinet.~~

~~(c) Change of ownership. The new owner of an AODE shall submit to the cabinet an Application for Licensure to Operate an Alcohol or Drug Treatment Entity (AODE) accompanied by a fee of $155 for each facility within ten (10) calendar days of the effective date of change.~~

~~(d) Discontinuing a program. An AODE shall notify the cabinet in writing within ten (10) calendar days of the effective date of change.~~

~~(11) Denial of a license. If an AODE fails to meet the requirements of this administrative regulation, the cabinet may deny the application for licensure or relicensure.~~

~~(12) Negative licensure actions.~~

~~(a) Complaints. If a complaint is received by the cabinet, the cabinet may conduct an unannounced on-site inspection to determine if a violation of a licensure standard has occurred. An inspection shall be conducted in accordance with subsection (8)(b), (c) and (d) of this section.~~

~~(b) Revocation of a license. If an AODE fails to meet the requirements of this administrative regulation, the cabinet may revoke a license.~~

~~(c) Immediate revocation of a license. The cabinet shall immediately revoke a license in the case of immediate danger.~~

~~Section 3. Appeals. (1) If the cabinet takes action to deny, revoke or immediately revoke an AODE license, the cabinet shall notify an AODE in writing stating a reason for the adverse action and the AODE's right to appeal in accordance with KRS 222.231(6) and (7).~~

~~(2) An AODE may appeal a negative action by the cabinet in writing to the Secretary, Cabinet for Health and Family Services, 4th Floor, 275 East Main Street, Frankfort, Kentucky 40621, within thirty (30) calendar days from the date of the notice of action from the cabinet.~~

~~(3) Upon receipt of an appeal, the secretary, or designee, shall notify the AODE in writing within fifteen (15) calendar days of the time and place of the hearing. The secretary, or designee, shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.~~

~~(4) Based upon the record and upon the information obtained at the hearing, a hearing officer shall make a recommendation to the secretary to affirm or overturn the initial decision of a negative action. The final decision shall be issued by the secretary in accordance with KRS 222.231(7).~~

~~(5) Immediate revocation. If an AODE's license is immediately revoked pursuant to Section 2(12)(c) of this administrative regulation, and the AODE requests a hearing, the cabinet shall conduct a hearing within five (5) working days of the cabinet's receipt of a request from the AODE. A hearing shall be continued at the request of an AODE.~~

~~(a) The sole issue of the hearing shall be whether there is immediate danger.~~

~~(b) The cabinet shall render a decision within five (5) working days of the hearing. If the decision overturns the negative action, an AODE shall have its license returned and be allowed to operate and continue the appeals process in accordance with subsections (1), (2), (3), and (4) of this section.~~

~~(c) If the cabinet determines there was immediate danger, the action by the cabinet to immediately revoke the AODE's license shall be upheld pending action by the cabinet to accept a plan of correction or to permanently revoke the license.~~

~~(6) An AODE that continues to operate after a closing date established by the secretary, or designee, shall be subject to legal action by the cabinet pursuant to KRS 222.990(2).~~

~~Section 4. Physical Plant. (1) An AODE shall ensure that a facility is in compliance with building, fire, safety, and health standards specified by federal, state and local laws and regulations.~~

~~(2) An AODE shall have a policy to ensure the following requirements are met in a non-twenty-four (24) hour program:~~

~~(a) A facility, including the equipment, shall be kept in good repair, neat, clean, free from all accumulations of dirt and rubbish and free from foul, stale and musty odors;~~

~~(b) A facility shall be kept free from insects and rodents with their harborages eliminated;~~

~~(c) A counseling session shall be conducted in an area where a client is ensured privacy and confidentiality; and~~

~~(d) State Fire Marshal approval of a facility shall be obtained at the time of application for initial licensure or if a program changes location. If a program is located in a public building, which receives a regular inspection from the State Fire Marshal, the AODE may submit a copy of the most recent inspection by the State Fire Marshal at the time of application for initial licensure or if a program changes location.~~

~~(3) In addition to the standards in subsection (1) of this section, an AODE operating a treatment program which provides twenty-four (24) hour care shall meet the following additional requirements:~~

~~(a) Including the square feet available within the entire facility, there shall be at least 120 square feet of space for each client residing in the facility;~~

~~(b) There shall be at least one (1) toilet and one (1) sink per eight (8) clients, and at least one (1) shower or tub per fifteen (15) clients;~~

~~(c) There shall be a bed with clean bedding which includes sheets, pillowcase, blanket, and a pillow for each client;~~

~~(d) There shall be adequate lighting, heating, heated water and ventilation;~~

~~(e) There shall be space for a client to store personal belongings, including a receptacle where personal property may be stored and locked;~~

~~(f) There shall be an area provided for the following:~~

~~1. Sleeping;~~

~~2. Dining;~~

~~3. Bathing and toileting;~~

~~4. Lounge;~~

~~5. Laundry;~~

~~6. Visiting;~~

~~7. Private consultation; and~~

~~8. Telephone;~~

~~(g) State Fire Marshal approval of a facility shall be obtained at the time of application for licensure, relicensure or if a program changes location;~~

~~(h) A facility, including the equipment, shall be kept in good repair, neat, clean, free from all accumulations of dirt and rubbish and free from foul, stale and musty odors;~~

~~(i) A facility shall be kept free from insects and rodents with their harborages eliminated; and~~

~~(j) A counseling session shall be conducted in an area where a client is ensured privacy and confidentiality.~~

~~Section 5. Organization and Administration. (1) There shall be a governing authority with overall responsibility for the management and operation of an AODE.~~

~~(2) A governing authority shall:~~

~~(a) Be responsible for the direction of an AODE by establishing written policies and procedures for the operation of the AODE;~~

~~(b) Develop a mission statement outlining an AODE's purpose;~~

~~(c) Identify an administrator who shall be principally responsible for the day-to-day operation of an AODE;~~

~~(d)1. Develop a policy to establish a fee schedule;~~

~~2. Conspicuously post the fee schedule in a public area of each facility;~~

~~3. Abide by the fee schedule;~~

~~4. Maintain financial records regarding the assessment and payment of client fees; and~~

~~5. Provide a receipt for all client services delivered;~~

~~(e) Ensure that an AODE's policies and procedures are available to all personnel and a copy is maintained at the AODE's administrative office; and~~

~~(f) Document that an AODE's policies and procedures are reviewed every two (2) years and revised as needed.~~

~~Section 6. Personnel Policies. (1) An AODE shall develop written policies and procedures governing personnel and~~

~~employment practices.~~

~~(2) There shall be a written job description for each position stating qualifications, duties, and reporting supervisor.~~

~~(3) There shall be evidence that all personnel are qualified for their position through documentation of education, work experience, and professional licensure, certification or registration.~~

~~(4) An individual who has had a criminal conviction for the neglect, physical abuse, sexual abuse or sexual exploitation of a child or for endangering the welfare of a child shall not be allowed to work with a juvenile client.~~

~~(5) A separate personnel record shall be maintained at the AODE's administrative office for each individual working in the AODE and shall contain:~~

~~(a) Job description;~~

~~(b) Documentation of education, work experience, and any professional licensure, certification or registration required for performance of the assigned job duties;~~

~~(c) Documentation of each training completed by the individual, to include the topic, length, and date of the training; and~~

~~(d) Documentation of the annual performance evaluation.~~

~~(6) There shall be written policies and procedures governing the duties and supervision of volunteers and student interns in the AODE.~~

~~Section 7. Quality Assurance. (1) An AODE shall have written policies and procedures to ensure that quality services are delivered and that the health and safety of the client population is protected while receiving a service.~~

~~(2) The policies and procedures shall establish a system of utilization review which includes:~~

~~(a) The quality of services shall be evaluated by a utilization review team composed of a representative sample of the clinical staff responsible for providing services;~~

~~(b) The utilization review shall assess the appropriateness and clinical necessity of client admissions as well as the accuracy, completeness and appropriateness of treatment plans and discharge;~~

~~(c) The utilization review shall evaluate a sample of client cases at regularly scheduled intervals; and~~

~~(d) A written record of the utilization review identifying inappropriate patterns of service and the recommended action for correcting a problem shall be submitted to the individual in the AODE with overall responsibility for the program's treatment services.~~

~~(3) The policies and procedures shall establish a system for responding to an accident or injury at a facility that requires hospitalization or results in death, or an incident at a facility involving fire damage, natural disaster or a threat to security that substantially interrupts the delivery of services, which includes:~~

~~(a) Documenting an incident or accident in an incident file which shall be maintained at an AODE's administrative office; and~~

~~(b) Reporting an incident or accident to the individual who is responsible for the day-to-day operation of an AODE and to the Cabinet for Health and Family Services according to the following:~~

~~1. An incident of child abuse or neglect in accordance with KRS 620.030; and~~

~~2. An incident of adult abuse or neglect in accordance with KRS 209.030.~~

~~(4) The policies and procedures for a twenty-four (24) hour program shall establish an infection control system which includes orientation for all new personnel and annual in-service training for all personnel on proper hygiene related to infections prevalent among alcohol and other drug abusers.~~

~~(5) The policies and procedures shall establish an emergency plan for responding to a disaster at the facility, including fire and severe weather, which includes:~~

~~(a) An emergency plan shall be conspicuously posted in a public area of each facility;~~

~~(b) A copy of the emergency plan shall be provided to all personnel;~~

~~(c) An AODE shall provide training for all personnel on how to report a fire, extinguish a small fire, and evacuate a building; and~~

~~(d) An AODE shall conduct a fire drill in accordance with 815 KAR 10:060.~~

~~(6) The policies and procedures shall establish a system to effectively respond to the problems associated with domestic violence among clients served in the AODE to include the following:~~

~~(a) Training for clinical staff on the dynamics of domestic violence, its effect on adult and child victims, legal remedies for protection, safety and risk issues, available community services and victim services, and applicable reporting requirements;~~

~~(b) A client with a history of domestic violence shall be assessed as to their current safety risks; and~~

~~(c) Mechanisms for reducing safety risks to the client with a history of domestic violence, staff and other clients.~~

~~Section 8. Clinical Staff Requirements. (1) An AODE shall ensure that all personnel receive ongoing training and supervision which enables them to carry out their job duties. The training and supervision shall be documented.~~

~~(a) A clinician shall complete a minimum of twenty (20) hours of training in alcohol and other drug abuse counseling annually.~~

~~(b) A clinical services supervisor shall complete twelve (12) hours of specialized training in clinical supervision, and a clinician who provides case management shall complete twelve (12) hours of specialized training in case management, within one (1) year from the effective date of this administrative regulation or within six (6) months from the date of assuming responsibility for that function, whichever is later.~~

~~(2) An AODE shall designate a clinical services supervisor, who shall provide supervision at one (1) or more facilities and who has overall responsibility for treatment services in a detoxification, residential, residential transitional living pursuant to Section 13(1) and (2) of this administrative regulation, outpatient or intensive outpatient program.~~

~~(a) Except as provided in paragraph (c) of this subsection, the clinical services supervisor shall be:~~

~~1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089, who has 4000 hours of clinical work experience post certification; or~~

~~2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (b) of this subsection:~~

~~a. Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;~~

~~b. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;~~

~~c. Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;~~

~~d. Certified psychologist with autonomous functioning certified to function without supervision, in an area specified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;~~

~~e. Certified psychologist with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.056;~~

~~f. Psychological associate with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.064;~~

~~g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;~~

~~h. Certified social worker with 6000 hours of postcertification clinical practice in psychiatric social work licensed by the Kentucky Board of Social Work in accordance with KRS 335.080;~~

~~i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in~~

~~psychiatric nursing from an accredited college or university and 6000 hours of clinical experience in psychiatric nursing;~~

~~j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a bachelor's degree in nursing from an accredited college or university who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has 6000 hours of clinical experience in psychiatric nursing;~~

~~k. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;~~

~~l. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or~~

~~m. Certified professional art therapist certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with the provisions of KRS 309.130.~~

~~(b) A certified or licensed professional meeting the requirements established in paragraph (a)2 of this subsection shall have:~~

~~1. Completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of assuming responsibility as a clinician in the AODE or within two (2) years immediately after assuming responsibility as a clinician in the AODE; and~~

~~2. 4000 hours of work experience in the alcohol and other drug treatment field post degree.~~

~~(c) A person shall qualify as a clinical services supervisor under this administrative regulation if, on the effective date of this administrative regulation, the person:~~

~~1. Met the requirements for clinical services supervisor as established in 908 KAR 1:050 and 908 KAR 1:190;~~

~~2. Had been a clinical services supervisor for at least five (5) years; and~~

~~3. Was employed as a clinical services supervisor in a licensed nonmedical alcohol treatment and education (NATE) center program or drug abuse treatment and education (DATE) center program.~~

~~(3) An AODE shall establish a policy prohibiting a clinical services supervisor from supervising a spouse, child, stepchild, sibling, parent, stepparent, grandparent, grandchild, aunt, uncle, niece, nephew, or in-law of the clinical services supervisor.~~

~~(4) Clinicians.~~

~~(a) A clinician shall be:~~

~~1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089;~~

~~2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (b) of this subsection:~~

~~a. Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;~~

~~b. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;~~

~~c. Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;~~

~~d. Certified psychologist with autonomous functioning certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;~~

~~e. Certified psychologist certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;~~

~~f. Psychological associate certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.064;~~

~~g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;~~

~~h. Certified social worker certified by the Kentucky Board of Social Work in accordance with KRS 335.080;~~

~~i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in nursing from an accredited college or university;~~

~~j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with one (1) of the following combinations of education and work experience:~~

~~(i) Bachelor of science in nursing from a four (4) year program from an accredited college or university and 2000 hours of clinical work experience in the substance abuse or mental health field;~~

~~(ii) Diploma graduate in nursing from a three (3) year program and 4000 hours of clinical work experience in the substance abuse or mental health field; or~~

~~(iii) Associate degree in nursing from a two (2) year program from an accredited college or university and 6000 hours of clinical work experience in the substance abuse or mental health field;~~

~~k. Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing in accordance with KRS 314.042;~~

~~l. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;~~

~~m. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or~~

~~n. Certified professional art therapist certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with the provisions of KRS 309.130; or~~

~~3. An individual with a bachelors degree or greater in any field from an accredited college or university, working under the supervision of a clinical services supervisor in accordance with subsection (2) of this section, and who, under supervision:~~

~~a. Receives at least four (4) hours of face-to-face supervision monthly; and~~

~~b. Has all treatment plans cosigned by the clinical services supervisor.~~

~~(b) A certified or licensed professional meeting the requirements established in paragraph (a)2 of this subsection shall have completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of assuming responsibility as a clinician in the AODE, or within two (2) years immediately after assuming responsibility as a clinician in the AODE.~~

~~(5) A clinical services supervisor shall maintain documentation of each supervisory session for each clinician supervised which includes the date, length of the session and content of the supervision.~~

~~(6) Staff working in a residential transitional living program, where counseling services are not provided on site, shall meet the credentialing and training requirements established in Section 13(3)(g) of this administrative regulation.~~

~~Section 9. Client Rights. (1) An AODE shall have written policies and procedures to ensure that the rights of a client are protected while participating in a treatment program.~~

~~(2) An AODE shall have a policy requiring that a notice of client rights is conspicuously posted in a public area of each facility and shall include the address and telephone number of the AODE's and the cabinet's ombudsman. If there is only one (1) individual working in the AODE, a notice of client rights shall include the address and telephone number of the cabinet's ombudsman.~~

~~(3) A client shall not be unlawfully discriminated against in determining eligibility for a treatment program.~~

~~(4) During a program's intake procedures, a client shall sign a statement which specifies a client has the right to:~~

~~(a) Give informed consent to receive a service.~~

~~1. An adult shall sign an informed consent to receive a service.~~

~~2. A juvenile, or the parent or guardian of a juvenile, shall sign an informed consent for a juvenile to receive a service in accordance with KRS 222.441;~~

~~(b) Have input into treatment and case management plans and be informed of their content;~~

~~(c) Receive individualized treatment;~~

~~(d) File a grievance, recommendation or opinion regarding the services a client receives;~~

~~(e) Give informed written consent regarding participation in a research study with the exception of a juvenile whose parent or guardian shall give informed written consent;~~

~~(f) Confidentiality according to the following:~~

~~1. A federally-assisted AODE in accordance with 908 KAR 1:320; or~~

~~2. A nonfederally-assisted AODE in accordance with KRS 222.271(1);~~

~~(g) Request a written statement of the charge for a service and be informed of the policy for the assessment and payment of fees;~~

~~(h) Be informed of the rules of client conduct, including the consequences for the use of alcohol and other drugs or other infractions that may result in disciplinary action or discharge;~~

~~(i) Be treated with consideration, respect, and personal dignity;~~

~~(j) Review client record in accordance with AODE policy; and~~

~~(k) Receive one (1) free copy of client record in accordance with KRS 422.317.~~

~~(5) A program providing twenty-four (24) hour care shall also specify on the client rights statement that a client has the right to:~~

~~(a) Vote in a political election;~~

~~(b) Reasonable accommodations to afford privacy in bathing and toileting; and~~

~~(c) Privileges in accordance with KRS 222.271(2).~~

~~(6) If the client is restricted from exercising a client right because it is contraindicated by the client's physical or mental condition, there shall be documentation in the client record of the reason for the restriction and of the explanation given to the client.~~

~~Section 10. Program Operations. (1) AODE's policies and procedures shall include:~~

~~(a) A written description for each program including philosophy, mission statement, goals, objectives and staffing;~~

~~(b) Admission, readmission, discharge, and transfer criteria including the categories of individuals accepted and not accepted into a program; and~~

~~(c) Procedures for making a referral within or outside an AODE.~~

~~(2) An AODE which provides services to juveniles shall have written policies and procedures to ensure the following:~~

~~(a) Services and educational materials shall be age appropriate; and~~

~~(b) With the written consent of a juvenile, the family shall be involved in a juvenile's treatment to the extent possible and appropriate.~~

~~(3) An AODE shall have a uniform client record system for each program which shall include the following requirements:~~

~~(a) A separate legible written or electronic record shall be established for each client and shall be:~~

~~1. Retained for five (5) years from the last date of service for an adult client age eighteen (18) and over;~~

~~2. Retained until age twenty-one (21) for a client who received a service under age eighteen (18), or for five (5) years from the last date of a service, whichever is longer;~~

~~3. Kept in a locked container accessible only to authorized personnel and maintained in a licensed AODE facility unless being transported to another licensed AODE facility; and~~

~~4. Kept confidential;~~

~~(b) A client record shall include the:~~

~~1. Application for admission including intake information;~~

~~2. Psychosocial, except in a detoxification program, or a residential transitional living program where counseling services are not provided on site;~~

~~3. Health status questionnaire or a copy of the record of a physical health examination;~~

~~4. Consent form, fee agreement, and client rights statement, each signed by the client;~~

~~5. Treatment plan, or in a detoxification program, a treatment plan or a standard treatment protocol;~~

~~6 Aftercare plan;~~

~~7. Progress notes;~~

~~8. Authorization for release of information signed by a client; and~~

~~9. Discharge summary;~~

~~(c) An entry in a client record shall include a signature and credential of the individual who delivered a service and the date the service was provided; and~~

~~(d) All information regarding a client's human immunodeficiency virus status shall be kept confidential in accordance with KRS 214.181 and 214.625.~~

~~(4) An AODE shall have written policies and procedures governing client grievances to include the following requirements:~~

~~(a) Identification of an AODE ombudsman;~~

~~(b) A process for filing a written client grievance;~~

~~(c) An appeals process with time frames for filing and responding to a grievance in writing;~~

~~(d) Protection for a client from interference, coercion, discrimination, or reprisal; and~~

~~(e) Conspicuously posting in a public area of each facility grievance procedures informing a client of:~~

~~1. A right to file a grievance;~~

~~2. A process for filing a grievance; and~~

~~3. The address and telephone number of the AODE's and cabinet's ombudsman. In an AODE where only one (1) individual is working, the notice shall contain the address and telephone number of the cabinet's ombudsman.~~

~~(5) If alcohol or drug testing is conducted as part of assessment, treatment, or discharge, there shall be written policies and procedures outlining the screening process and the consequences for testing positive.~~

~~(6) An AODE shall have a written policy prohibiting the use of alcohol and illegal drugs by a client or visitors while in the program.~~

~~Section 11. Detoxification Program. In addition to the requirements established in Sections 1 through 10 of this administrative regulation, the following requirements shall be met in a detoxification program.~~

~~(1) At admission, a client shall receive an assessment to determine if the client is intoxicated or in withdrawal, the severity of the client's physical and mental condition, and a need for emergency medical care. The assessment shall be in accordance with an assessment protocol developed in consultation with a physician and documented in the client's record.~~

~~(2) Within twenty-four (24) hours of admission, the following information shall be obtained from a client and documented in the client record:~~

~~(a) Client identifying and demographic information;~~

~~(b) Emergency contact person;~~

~~(c) Presenting problem;~~

~~(d) History of alcohol and other drug use including problems and previous treatment related to the abuse of alcohol or other drugs;~~

~~(e) History and previous treatment for a physical problem including delirium tremens, seizures, heart disease, liver disease, and infectious disease including tuberculosis, hepatitis, and human immunodeficiency virus;~~

~~(f) History and previous treatment for a behavioral health problem, developmental and intellectual disability;~~

~~(g) Assessment of pregnancy based on a client's self-report; and~~

~~(h) Signed consent to treatment.~~

~~(3) A written treatment plan based on the assessment shall be completed for the client within forty-eight (48) hours of admission, revised as new information is received, and include:~~

~~(a) Presenting problem;~~

~~(b) Identification of a client problem;~~

~~(c) Type of service to be provided including referrals;~~

~~(d) Criteria for discharge;~~

~~(e) Staff person primarily responsible for coordinating the client's care; and~~

~~(f) Client's signature.~~

~~(4) A treatment plan protocol may be used in place of an individualized treatment plan. An exception to the protocol shall be documented in the client record.~~

~~(5) A progress note shall be recorded following the delivery of a professional service and include the service provided, an observation of the client's behavior and response to the service,~~

~~and the client's progress toward meeting the goals and objectives of the treatment plan.~~

~~(6) An aftercare plan shall be developed with a client's participation and include a referral to alcohol and other drug abuse treatment or a community service which may include a self-help group, housing, medical, and social services needed by the client.~~

~~(7) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:~~

~~(a) Date of admission and discharge;~~

~~(b) Presenting problem;~~

~~(c) Summary of treatment and response to treatment; and~~

~~(d) Referrals made to another organization or provider.~~

~~(8) The pulse and blood pressure of a client shall be monitored three (3) times daily and documented in the client record.~~

~~(9) A client shall receive counseling, education, and orientation to self-help groups specific to addiction recovery, as soon as the client is physically and mentally capable, with a primary focus on motivating a client to continue in treatment after discharge.~~

~~(10) A client shall be provided an opportunity to meet with a self-help group and other outside service providers as soon as the client is physically and mentally capable.~~

~~(11) There shall be written policies and procedures on the use of medication by a client which shall include:~~

~~(a) Prescription and over-the-counter medication brought with a client shall be recorded in the client's record upon admission;~~

~~(b) A policy on self-administration of an over-the-counter medication to include the identification of medication which requires physician approval prior to use by a client;~~

~~(c) A program without a physician on staff shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in paragraph (b) of this subsection is not contraindicated with the treatment plan, and the verification shall be documented in the client record;~~

~~(d) Prescription and over-the-counter medication shall be stored in a locked, secure location inaccessible to a client;~~

~~(e) Medication shall be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the label; and~~

~~(f) Self-administration of prescription and over-the-counter medication shall be documented in the client record and include:~~

~~1. Name of the medication;~~

~~2. Date and time of self-administration;~~

~~3. Dosage and amount of medication; and~~

~~4. Name of the staff person who monitored the self-administration of the medication.~~

~~(12) Food services shall be provided according to the following:~~

~~(a) In accordance with 902 KAR 45:005. A copy of the food service permit shall be maintained on site; and~~

~~(b) There shall be documentation that meal planning is approved by a registered dietician.~~

~~(13) A program shall be staffed twenty-four (24) hours a day, seven (7) days a week, and staff shall include:~~

~~(a) A program manager, supervisor or coordinator;~~

~~(b) At least two (2) staff per shift with one (1) trained in crisis intervention, cardiopulmonary resuscitation and standard first aid; and~~

~~(c) Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet the staffing requirements.~~

~~(14) Before working alone, a staff person shall be trained in:~~

~~(a) Monitoring the vital signs of pulse and blood pressure;~~

~~(b) Crisis intervention;~~

~~(c) Cardiopulmonary resuscitation and standard first aid conducted by a certified instructor;~~

~~(d) The recognition of problems associated with alcohol and other drug use, symptoms requiring referral for emergency care, degree of intoxication, stages of withdrawal, and the physical or mental complications that may occur at each stage;~~

~~(e) Techniques for motivating a client to continue in treatment after discharge;~~

~~(f) Local and state resources including the procedure for making a client referral; and~~

~~(g) Effects of alcohol and other drug use on a pregnant woman and her fetus including special detoxification needs during pregnancy, and recognition of when to refer a pregnant client for medical detoxification.~~

~~Section 12. Residential Treatment Programs. In addition to the requirements established in Sections 1 through 10 of this administrative regulation, the following requirements shall be met in residential programs.~~

~~(1) General residential.~~

~~(a) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from the client.~~

~~(b) An assessment shall be completed on each client and include:~~

~~1. A psychosocial which shall include:~~

~~a. Presenting problem;~~

~~b. History and treatment of alcohol and other drug abuse;~~

~~c. Current living arrangement;~~

~~d. Family relationships;~~

~~e. Legal, employment, military, educational and vocational history;~~

~~f. Peer group relationships;~~

~~g. Religious background and practices;~~

~~h. History and treatment of behavioral health problem, developmental disability, or intellectual disability including emotional, physical and sexual abuse;~~

~~i. Ethnic and cultural background;~~

~~j. Leisure and recreational activities;~~

~~k. Client strengths and limitations; and~~

~~l. An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~2. A mental status screening;~~

~~3. Completion of a physical health status questionnaire, which has been developed in consultation with a physician or a copy of the record of a physical health examination, which includes at least:~~

~~a. History of medical problems;~~

~~b. Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;~~

~~c. Use of prescription and over-the-counter medication;~~

~~d. Allergies; and~~

~~e. Identification of a medical condition that may affect the client's participation in treatment; and~~

~~4. A summary of the client's needs based on an analysis of all information from the client's assessment and which includes a recommended course of treatment.~~

~~(c) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation within six (6) calendar days of admission and include:~~

~~1. An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~2. The client's problem;~~

~~3. Goals, measurable objectives and criteria for discharge;~~

~~4. Duration, frequency and type of service to be provided;~~

~~5. Referrals;~~

~~6. Staff person primarily responsible for developing the treatment plan; and~~

~~7. The client's signature.~~

~~(d) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client every two (2) weeks and be documented in the client's record.~~

~~(e) Alcohol and other drug abuse counseling, including a focus on relapse prevention, shall be provided to each client. If provided in a group, there shall be a maximum of fifteen (15) clients per clinician.~~

~~(f) Education shall be provided to each client on the effects of alcohol and other drug abuse, the disease and recovery from alcoholism and other drug dependency, consistent with the client's treatment plan.~~

~~(g) Orientation to self-help groups specific to addiction~~

~~recovery shall be provided to each client.~~

~~(h) Organized recreational activities shall be:~~

~~1. Provided to each client under the direction of staff; and~~

~~2. Part of the client's schedule.~~

~~(i) A written aftercare plan shall:~~

~~1. Be developed for each client with the client's participation;~~

~~2. Be based on the client's needs at discharge; and~~

~~3. Include activities and referrals supporting recovery from alcohol and other drug abuse.~~

~~(j) A client shall have access to films, printed materials, and audio and video tapes related to the treatment of alcohol and other drug abuse.~~

~~(k) Information or education about alcohol and other drug dependency and recovery shall be made available to a client's family or significant other. If a service is requested, it shall be provided either directly or through referral to a qualified outside provider.~~

~~(l) A client shall receive forty (40) hours of structured activities weekly including alcohol and other drug abuse education; individual, group or family counseling; self-help group meetings and recreation. Ten (10) of the forty (40) hours of structured weekly activities shall be counseling services.~~

~~(m) A progress note which includes the service provided, an observation of a client's behavior and response to the service and a client's progress toward meeting the goals and objectives of the treatment plan shall be recorded after an individual counseling session, and weekly in a summary note if a client receives multiple services.~~

~~(n) A discharge summary shall be completed within thirty (30) calendar days of discharge and include the date of admission and discharge, presenting problem, an evaluation of the client's alcohol and other drug abuse or dependency, summary of treatment and response to treatment and referrals made to another organization or provider.~~

~~(o) A client shall be provided an opportunity to meet with a self-help group and other outside service providers.~~

~~(p) If a client performs work in a program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the work shall be voluntary and consistent with the treatment plan.~~

~~(q) There shall be written policies and procedures on the use of medication by a client which shall include:~~

~~1. Prescription and over-the-counter medication brought with a client shall be recorded in the client's record upon admission;~~

~~2. A policy on self-administration of over-the-counter medication to include the identification of medication which requires physician approval prior to use by a client while in the program;~~

~~3. A program without a physician on staff shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in subparagraph 2 of this paragraph is not contraindicated with the client's treatment plan, and the verification shall be documented in the client's record;~~

~~4. Prescription and over-the-counter medication shall be stored in a locked and secure location inaccessible to clients;~~

~~5. Medication shall be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the label; and~~

~~6. Self-administration of prescription and over-the-counter medication shall be documented in the client's record and include:~~

~~a. Name of the medication;~~

~~b. Date and time of self-administration;~~

~~c. Dosage and amount of medication; and~~

~~d. Name of the staff person who monitored the self-administration of the medication.~~

~~(r) Food services shall be provided according to the following:~~

~~1. In accordance with 902 KAR 45:005. A copy of the food service permit shall be maintained on site; and~~

~~2. There shall be documentation that meal planning is approved by a registered dietician.~~

~~(s) A program shall be staffed twenty-four (24) hours a day, seven (7) days a week, and staff shall include:~~

~~1. A program manager, supervisor or coordinator;~~

~~2. Staffing capability to ensure that an appropriate staff person is responsible for managing a program in the absence of a program manager, supervisor or coordinator; and~~

~~3. Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements.~~

~~(t) There shall be at least one (1) staff person on duty at all times who has completed training in crisis intervention and standard first aid, which includes cardiopulmonary resuscitation and is conducted by a certified instructor.~~

~~(2) Family residential program. In addition to the requirements established in subsection (1) of this section, the following requirements shall be met for a family residential program.~~

~~(a) A client with a need identified in a treatment plan shall receive training on parenting.~~

~~(b) There shall be written policies on children to include:~~

~~1. Maximum number of children permitted to reside in the facility at one (1) time;~~

~~2. Age of children permitted to reside in the facility;~~

~~3. A client shall sign a statement outlining a client's responsibility for the client's children while in the facility to include:~~

~~a. A client shall have primary responsibility for ensuring that a child's needs are met regarding food, clothing, hygiene, safety, discipline, supervision and follow-up on a referral to a community resource for the children who reside with him in the facility;~~

~~b. A client shall make prior arrangements for the care of the client's children if leaving the facility without the client's children; and~~

~~c. A client shall identify, in writing, an emergency contact person, who will be responsible for the care of the client's children if leaving the facility;~~

~~4. Identification of community resources including education and child care;~~

~~5. Education about the effect on a family and children when a parent or a parent's partner abuses alcohol or other drugs; and~~

~~6. Organized recreational activities shall be provided under the direction of staff and posted on a schedule.~~

~~Section 13. Residential Transitional Living Program. In addition to the requirements established in Sections 1, 2, 3, 4, 5, 6, 7, 9 and 10 of this administrative regulation, the following requirements shall be met in a residential transitional living program.~~

~~(1) General requirements.~~

~~(a) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from the client.~~

~~(b) A physical health status questionnaire, which has been developed in consultation with a physician, or a copy of the record of a physical health examination, shall be completed for each client and include at least:~~

~~1. History of medical problems;~~

~~2. Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;~~

~~3. Use of prescription and over-the-counter medication;~~

~~4. Allergies; and~~

~~5. Identification of a medical condition that may affect a client's participation in treatment.~~

~~(c) A written aftercare plan shall:~~

~~1. Be developed for each client with the client's participation;~~

~~2. Be based on the client's needs at discharge; and~~

~~3. Include activities and referrals supporting recovery from alcohol and other drug abuse.~~

~~(d) Orientation to self-help groups specific to addiction recovery shall be provided to each client.~~

~~(e) A client shall be provided an opportunity to meet with a self-help group and other outside service providers.~~

~~(f) An AODE shall have a policy requiring that if a client performs work in the program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the work shall be voluntary and consistent with the treatment plan.~~

~~(g) There shall be written policies and procedures on the use of medication by a client which shall include:~~

~~1. Prescription and over-the-counter medication brought with a client shall be recorded in the client's record upon admission;~~

~~2. A policy on self-administration of over-the-counter medication to include the identification of medication which requires physician approval prior to use by a client while in the program;~~

~~3. A program without a physician on staff shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in subparagraph 2 of this paragraph is not contraindicated with the client's treatment plan and the verification shall be documented in the client's record;~~

~~4. Prescription and over-the-counter medication shall be stored in a locked and secure location inaccessible to clients;~~

~~5. Medication shall be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the label; and~~

~~6. Self-administration of prescription and over-the-counter medication shall be documented in the client's record and include:~~

~~a. Name of the medication;~~

~~b. Date and time of self-administration;~~

~~c. Dosage and amount of medication; and~~

~~d. Name of the staff person who monitored the self-administration of the medication.~~

~~(h) Food services shall be provided according to the following:~~

~~1. In accordance with 902 KAR 45:005;~~

~~2. A copy of the food service permit shall be maintained on-site; and~~

~~3. There shall be documentation that meal planning is approved by a registered dietician.~~

~~(2) Residential transitional living program where counseling services are provided on-site. In addition to the requirements established in subsection (1) of this section, the following requirements shall be met:~~

~~(a) An assessment shall be completed on each client and include:~~

~~1. A psychosocial which shall include:~~

~~a. Presenting problem;~~

~~b. History and treatment of alcohol and other drug abuse;~~

~~c. Current living arrangement;~~

~~d. Family relationships;~~

~~e. Legal, employment, military, educational, and vocational history;~~

~~f. Peer group relationships;~~

~~g. Religious background and practices;~~

~~h. History and treatment of mental retardation, a developmental disability or a mental health problem including emotional, physical and sexual abuse;~~

~~i. Ethnic and cultural background;~~

~~j. Leisure and recreational activities;~~

~~k. Client strengths and limitations; and~~

~~l. An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~2. A mental status screening; and~~

~~3. A summary of a client's needs based on an analysis of all information from the client's assessment and which includes a recommended course of treatment.~~

~~(b) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation within seven (7) calendar days of admission and include:~~

~~1. An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~2. The client's problem;~~

~~3. Goals, measurable objectives and criteria for discharge;~~

~~4. Duration, frequency and type of service to be provided;~~

~~5. Referrals;~~

~~6. Staff person primarily responsible for developing the treatment plan; and~~

~~7. The client's signature.~~

~~(c) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client monthly and be documented in the client's record.~~

~~(d) Alcohol and other drug abuse counseling, including a focus on relapse prevention, shall be provided to each client. If provided in a group there shall be a maximum of fifteen (15) clients per clinician.~~

~~(e) A progress note which includes the service provided, an observation of a client's behavior and response to the service, and a client's progress toward meeting the goals and objectives of the treatment plan shall be recorded after an individual counseling session, and weekly in a summary note if a client receives multiple services.~~

~~(f) There shall be documentation in a client's record that the client is:~~

~~1. Employed;~~

~~2. Pursuing employment;~~

~~3. Participating in vocational education, training or rehabilitation; or~~

~~4. Receiving a disability benefit.~~

~~(g) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:~~

~~1. The date of admission and discharge;~~

~~2. Presenting problem;~~

~~3. An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~4. Summary of the client's progress in relation to the treatment plan; and~~

~~5. Referrals made to another organization or provider.~~

~~(h) A program shall meet the staffing requirements established in Section 8 of this administrative regulation, be staffed twenty-four (24) hours a day, seven (7) days a week, and include:~~

~~1. A program manager, supervisor or coordinator;~~

~~2. Staffing capability to ensure that an appropriate staff person is responsible for managing a program in the absence of a program manager, supervisor or coordinator; and~~

~~3. Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements.~~

~~(i) There shall be at least one (1) staff person on duty at all times who has completed training in crisis intervention and standard first aid, which includes cardiopulmonary resuscitation conducted by a certified instructor.~~

~~(3) Residential transitional living program where counseling services are not provided on-site. In addition to the requirements established in subsection (1) of this section, the following requirements shall be met.~~

~~(a) At admission, an evaluation of the need for each of the following shall be completed for each client:~~

~~1. Alcohol and other drug abuse services;~~

~~2. Employment services;~~

~~3. Vocational education, training or rehabilitation services;~~

~~4. Disability services;~~

~~5. Other health and human services; and~~

~~6. Assistance in developing daily living skills.~~

~~(b) A written individualized treatment plan based on the evaluation of a client's needs shall be developed for each client with the client's participation within seven (7) calendar days of admission, documented in the client's record and include the following:~~

~~1. A client's problem;~~

~~2. Goals, measurable objectives and criteria for discharge;~~

~~3. Duration, frequency and type of service to be provided;~~

~~4. Referrals;~~

~~5. Staff person primarily responsible for developing the treatment plan; and~~

~~6. The client's signature.~~

~~(c) A treatment plan and a client's progress shall be reviewed by a caseworker and the client monthly and be documented in the client's record.~~

~~(d) Training in daily living and relapse prevention skills shall be provided to each client.~~

~~(e) A progress note shall be recorded weekly in a summary~~

~~note documenting the client's progress in:~~

~~1. Employment;~~

~~2. Pursuing employment;~~

~~3. Participation in vocational education, training or rehabilitation;~~

~~4. Participation in self-help groups;~~

~~5. Training in daily living and relapse prevention skills; and~~

~~6. Following through on referrals to needed services.~~

~~(f) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:~~

~~1. Date of admission and discharge;~~

~~2. Presenting problem;~~

~~3. Summary of the client's progress in relation to the treatment plan; and~~

~~4. Referrals made to another organization or provider.~~

~~(g) A program shall meet the following staffing requirements.~~

~~1. A program manager shall be responsible for the day-to-day management of the program, supervising and documenting supervision of caseworkers and for the implementation and monitoring of program policies and procedures.~~

~~2. A program manager may be responsible for more than one (1) facility.~~

~~3. A program manager shall:~~

~~a. Meet the requirements of a clinical services supervisor in accordance with Section 8(2)(a)1 or 2 of this administrative regulation; or~~

~~b. Have a bachelors degree from an accredited college or university, plus 4000 hours of work experience in social services and eighty (80) hours of alcohol and other drug abuse training, within four (4) years immediately prior to the date of assuming responsibility as a program manager or within two (2) years immediately after assuming responsibility as a program manager.~~

~~4. A caseworker shall be responsible for:~~

~~a. Developing a client's treatment plan;~~

~~b. Monitoring a client's progress in relation to the treatment plan;~~

~~c. Conducting a client's training on daily living skills and relapse prevention skills; and~~

~~d. Making referrals.~~

~~5. A caseworker shall:~~

~~a. Be a certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089;~~

~~b. Have a bachelors degree from an accredited college or university and forty (40) hours of alcohol and other drug abuse training within four (4) years immediately prior to the date of assuming responsibility as a caseworker or within one (1) year of employment in this position or within one (1) year from the effective date of this administrative regulation whichever is later; or~~

~~c. Have an associate degree from an accredited college or university, or be an individual without a degree with at least three (3) years of recovery from alcohol or other drug abuse, plus have the following:~~

~~(i) Forty (40) hours of alcohol and other drug abuse training within four (4) years immediately prior to the date of assuming responsibility as a caseworker or within one (1) year of employment in this position or within one (1) year from the effective date of this administrative regulation whichever is later;~~

~~(ii) Four (4) hours of face-to-face supervision per month; and~~

~~(iii) Treatment plans cosigned by the program manager.~~

~~6. There shall be sufficient staff to ensure that an appropriate staff person is responsible for managing a program in the absence of the program manager.~~

~~7. There shall be sufficient staff to meet client needs based on the number of clients and the need for assistance by clients. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements.~~

~~8. At least one (1) staff person on duty shall have completed training in crisis intervention and standard first aid, which includes cardiopulmonary resuscitation conducted by a certified instructor.~~

~~9. Staff training requirements shall include:~~

~~a. A program manager shall complete a minimum of twenty (20) hours of alcohol and other drug abuse related training annually; and~~

~~b. A caseworker shall complete a minimum of ten (10) hours of alcohol and other drug abuse related training annually.~~

~~Section 14. Outpatient Program. In addition to the requirements established in Sections 1 through 10 of this administrative regulation, the following requirements shall be met in an outpatient program.~~

~~(1) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from a client.~~

~~(2) An assessment shall be completed on each client and include:~~

~~(a) A psychosocial which shall include:~~

~~1. Presenting problem;~~

~~2. History and treatment of alcohol and other drug abuse;~~

~~3. Current living arrangement;~~

~~4. Family relationships;~~

~~5. Legal, employment, military, educational and vocational history;~~

~~6. Peer group relationships;~~

~~7. Religious background and practices;~~

~~8. History and treatment of behavioral health problem, developmental disability, or a mental health problem or a mental health problem including emotional, physical and sexual abuse;~~

~~9. Ethnic and cultural background;~~

~~10. Leisure and recreational activities;~~

~~11. Client strengths and limitations; and~~

~~12. An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~(b) A mental status screening;~~

~~(c) Completion of a physical health status questionnaire, which has been developed in consultation with a physician or a copy of the record of a physical health examination which includes at least:~~

~~1. History of medical problems;~~

~~2. Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;~~

~~3. Use of prescription and over-the-counter medication;~~

~~4. Allergies; and~~

~~5. Identification of a medical condition that may affect a client's participation in treatment; and~~

~~(d) A summary of a client's needs based on an analysis of all information from the client's assessment and which includes a recommended course of treatment.~~

~~(3) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation before the fourth client session and include:~~

~~(a) An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~(b) The client's problem;~~

~~(c) Goals, measurable objectives and criteria for discharge;~~

~~(d) Duration, frequency and type of service to be provided;~~

~~(e) Referrals;~~

~~(f) Staff person primarily responsible for developing the treatment plan; and~~

~~(g) The client's signature.~~

~~(4) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client every six (6) months and be documented in the client's record.~~

~~(5) Alcohol and other drug abuse counseling, including a focus on relapse prevention, shall be provided to each client. If provided in a group there shall be a maximum of fifteen (15) clients per clinician.~~

~~(6) Education shall be provided to each client on the effects of alcohol and other drug abuse, the disease and recovery from alcohol and other drug dependency, consistent with the client's treatment plan.~~

~~(7) A referral to self-help groups specific to addiction recovery shall be provided to each client.~~

~~(8) A written aftercare plan shall:~~

~~(a) Be developed for each client with the client's participation;~~

~~(b) Be based on a client's needs at discharge; and~~

~~(c) Include activities and referrals supporting recovery from~~

~~alcohol and other drug abuse.~~

~~(9) A progress note shall be recorded following each client contact. If the contact is the delivery of a professional service, an observation of the client's behavior and response to the service and the client's progress toward meeting the goals and objectives of the treatment plan shall be recorded.~~

~~(10) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:~~

~~(a) The date of admission and discharge;~~

~~(b) Presenting problem;~~

~~(c) An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~(d) Summary of treatment and response to treatment; and~~

~~(e) Referrals made to another organization or provider.~~

~~(11) A program shall have a procedure for informing clients of the availability of emergency services after a program's normal hours of operation.~~

~~(12) Staff shall include:~~

~~(a) A program manager, supervisor or coordinator; and~~

~~(b) Sufficient staff to meet client needs based on the number of clients, the need for assistance by clients, and the type of services delivered.~~

~~(13) If narcotic maintenance is provided, it shall be provided in accordance with 908 KAR 1:340.~~

~~Section 15. Intensive Outpatient Program. In addition to the requirements established in Sections 1 through 10 and 14(1), (2), (5), (6), (7), (8), (10), (11), and (12) of this administrative regulation, the following requirements shall be met for an intensive outpatient program.~~

~~(1) A client shall receive a variety of structured comprehensive individual and group therapeutic activities for a minimum of six (6) hours over a period of two (2) or more days weekly.~~

~~(2) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation before the client's fourth session and include:~~

~~(a) An evaluation of the client's alcohol and other drug abuse or dependency;~~

~~(b) The client's problem;~~

~~(c) Goals, measurable objectives and criteria for discharge;~~

~~(d) Duration, frequency and type of service to be provided;~~

~~(e) Referrals;~~

~~(f) Staff person primarily responsible for developing the treatment plan; and~~

~~(g) The client's signature.~~

~~(3) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client monthly and be documented in the client's record.~~

~~(4) Information or education about alcohol and other drug dependency and recovery shall be made available to a client's family or significant other. If a service is requested, it shall be provided either directly or through referral to a qualified outside provider.~~

~~(5) An AODE shall have a policy requiring that a schedule of all planned therapeutic activities shall be given to each client or conspicuously posted in the facility.~~

~~(6) A progress note which includes the service provided, the length of the session, an observation of the client's behavior and response to the service, and the client's progress toward meeting the goals and objectives of the client's treatment plan shall be recorded after an individual counseling session, and weekly in a summary note if the client receives multiple services.~~

~~(7) If a client receives services for at least five (5) consecutive hours daily, food services shall be provided either:~~

~~(a) Directly by the program according to the following:~~

~~1. In accordance with 902 KAR 45:005. A copy of the food service permit shall be maintained on site; and~~

~~2. There shall be documentation that meal planning is approved by a registered dietician; or~~

~~(b) By allowing the client adequate time to eat food obtained outside the facility.~~

~~Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) Application for Licensure to Operate an Alcohol or Drug Treatment Entity (AODE), 11-99; and~~

~~(b) Form L&R 18, Statement of Deficiencies and Plan of Correction, 11-99.~~

~~(2) This material may be inspected, copied, or obtained at the Office of Inspector General,, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

WENDY MORRIS, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Justin Dearinger, email Justin.Dearinger@ky.gov, phone 502-782-7212; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the licensure requirements for outpatient and residential alcohol and other drug treatment entities (AODE).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 222.231(2), which requires the cabinet to promulgate administrative regulations to establish health, safety, and patient care standards for AODE programs according to type and range of services. Moreover, this administrative regulation is necessary to comply with the passage of HB 124 from the 2018 legislative session, a measure that required the cabinet to conduct a comprehensive review of all current state licensure and quality standards applicable to substance use disorder treatment programs and develop enhanced standards for treatment and recovery services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 222.231(2) by establishing licensure requirements for outpatient and residential AODE programs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing licensure requirements for outpatient and residential AODE programs.

(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 licensure requirements for outpatient and residential AODE programs, including licensing procedures, fees, responsibilities of the governing authority, quality assurance and utilization review, policies and procedures, staff qualifications and training, client rights, client records, assessment, treatment planning, and adverse action procedures.

Based upon comments received in writing and at the public hearing held on February 25, 2019, the Cabinet has made the following substantive revisions in the proposed "Amended After Comments" administrative regulation:

Added the phrase "other FDA-approved drug" in Section 1(3)(f) to align with 908 KAR 1:374, Section 1(1), thereby clarifying that narcotic treatment programs may use another FDA-approved drug formulation in addition to methadone or buprenorphine for the treatment of narcotic addiction;

Added language in Section 6(2)(g) and 9(1)(b) to clarify that an AODE program's written policies and procedures may be maintained electronically;

Added "physician assistant" to the list of individuals in Section 11(4) who may provide services as a "clinician" in an AODE program;

Clarified in Section 11(4)(d)5. that a clinician with a bachelor's degree in a field other than human services must obtain temporary certification as an alcohol and drug counselor (TCADC) if hired by an AODE program after the effective date of this administrative regulation. Otherwise, currently employed bachelor's level clinicians will not be subject to the requirement for obtaining a TCADC if the person was employed as a clinical by an AODE prior to the effective date of this administrative regulation and has maintained continuous employment as a clinician;

Reduced the number of hours of continuing education in alcohol and other drug-relevant training from twenty (20) hours to ten (10) hours annually for case managers in Section 12(1)(c);

Clarified in Section 15(2) that an applicant seeking work in an AODE program that provides services to clients under age eighteen (18) may be hired pending the results of a child abuse/neglect central registry check as long as the employee is not left unsupervised in the presence of clients;

Amended Section 16(6)(a) to clarify that the client's right to vote in a political election applies if the client is age eighteen (18) or over;

Removed the word "licensed" and added "operating within the clinician's professional scope of practice" in Section 18(1) so that most clinicians may complete a comprehensive biopsychosocial assessment at the time of admission;

Clarified in Section 18(1)(d) and 18(6) that pregnancy testing completed at the time of the biopsychosocial assessment or as part of the full physical examination shall be done with the consent of the client;

Clarified in Section 18(3) that the client's diagnosis may be made by a "clinician operating within the clinician's professional scope of practice" instead of "appropriately licensed treatment staff";

Deleted the word "interim" from Section 18(5) to require, if transfer to another facility or level of care is indicated, that the outpatient or residential AODE provide services (rather than interim services) that are responsive at the client's current level of care until the transfer is made;

Clarified in Section 19(1)(f) and (g) that a client's treatment plan is subject to review at least every thirty (30) days and rewritten every six (6) months; and

Clarified in Section 19(7), 19(8), and 19(9) that a client's family may participate in the development of the client's treatment plan upon consent from the client.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with HB 124 passed during the 2018 legislative session, a measure that required the cabinet to conduct a comprehensive review of all current state licensure and quality standards applicable to substance use disorder treatment programs and develop enhanced standards for treatment and recovery services, including residential, outpatient, and medication-assisted treatment. Specific changes include:

The amendment updates the process for identifying regulatory violations and accepting plans of correction to align with the same process established for health care facilities in 902 KAR 20:008;

The amendment adds licensed clinical alcohol and drug counselors (LCADC) to the list of professionals who may serve as the AODE program's clinical services supervisor or otherwise work as a clinician in the facility; and

If a clinician possesses a bachelor's degree in an area other than the field of human services, the amendment includes a new standard to require that the individual obtain temporary certification as an alcohol and drug counselor within two months from the date of employment. A clause has been added that clinicians employed prior to the effective date of this administrative regulation are exempt from this new requirement.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 222.462(2)(a) by establishing a set of comprehensive quality standards and criteria based on nationally recognized and evidence-based standards for substance use disorder treatment and recovery programs.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing licensure and quality standards for outpatient and residential AODE programs. In addition, this amendment is being filed concurrently with 908 KAR 1:372, Licensure of residential alcohol and other drug treatment entities, and 908 KAR 1:374, Licensure of nonhospital-based outpatient alcohol and other drug treatment entities, each of which establishes additional standards specific to each setting.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts licensed AODE programs. Currently, there are approximately 295 outpatient AODE programs and approximately 99 residential AODE programs. In an effort to engage external stakeholders, the Cabinet hosted a webinar with AODE licensees and other interested groups on October 11, 2018. A preliminary draft of this administrative regulation, 908 KAR 1:372, and 908 KAR 1:374 was distributed to stakeholders during that webinar and drafts of these regulations were sent via email and posted online. Subsequent feedback from stakeholders was taken into consideration by the Cabinet and used to make changes to the drafts during the development of these administrative regulations.

(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: Entities that operate residential or outpatient AODE programs must demonstrate compliance with the standards established by this administrative regulation and 908 KAR 1:372 or 908 KAR 1:374. AODE providers will have to meet the following new requirements based on the amendment of this administrative regulation:

A new section on co-occurring services to require outpatient and residential AODEs to screen for co-occurring disorders and treat or otherwise refer clients for needed services. This enhancement recognizes that in the AODE programs that treat individuals with co-occurring disorders, policies and procedures are necessary to govern the integrated treatment of substance use and mental health disorder;

A new requirement for implementation of a language access plan to assure that AODE programs address the needs of clients who may have a visual impairment, may be deaf or hard of hearing, or might not be able to communicate because of a language barrier;

A new requirement that recognizes the prevalence of trauma and requires that staff training cover the dynamics of retraumatization in an effort to help create a trauma-informed environment that ensures all staff are knowledgeable in evidence-based practices to avoid institutional processes that may retraumatize clients;

A new requirement for AODE programs to conduct a check of the child abuse and neglect central registry for staff members who work with adolescents; and

The amendment clarifies that the client's treatment plan must be entered into the client's record within 72 hours of admission in a residential AODE and within 30 days of admission to an outpatient AODE. Review of the treatment plan must occur every two weeks in residential AODE programs, quarterly for intensive outpatient services (IOP) or partial hospitalization, and every six months for other outpatient services, such as outpatient treatment, ambulatory withdrawal management, office-based opiate treatment services, or narcotic treatment program services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Under this amendment, the fee for initial licensure and annual renewal as a residential or outpatient AODE program is $500. The fee for each outpatient extension site is $80 per location. The processing fee for a change of name is $25. The processing fee for a change of location is $80. The processing fee for a change of ownership is $500. Under this amendment AODE

licensed programs will no longer need a BHSO license to bill Medicaid for services. A BHSO license is $500 annually.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The following benefits will accrue to the entities identified in question 3 as a result of compliance to this amendment: The Cabinet has streamlined the licensing process by eliminating the requirement for dual licensure as a BHSO-AODE as a condition of enrollment in Medicaid. Licensure as an AODE that is fully accredited without the need for separate licensure as a BHSO will be acceptable for Medicaid payment.

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

(a) Initially: There is no anticipated cost to the administrative body to implement this amendment.

(b) On a continuing basis: There is no anticipated cost to the administrative body to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no anticipated cost to the administrative body to implement 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: In effect since April 12, 2000, the fee for initial licensure of a residential or outpatient AODE program is $155 and the fee for annual renewal is $80. However, this amendment proposes to increase the licensure fee to $500 for both initial licensure and annual renewal. The proposed increase is comparable to the $500 fee currently established under 908 KAR 20:008 for initial licensure and annual renewal of other licensure categories, including home health agencies, hospice providers, psychiatric residential treatment facilities, freestanding or mobile technology units, private duty nursing agencies, and prescribed pediatric extended care facilities. It is important to note that this amendment does not increase the $80 fee for outpatient extension sites. Additionally, this amendment does not increase the $25 processing fee for a change of name or the $80 processing fee for a change of location. A change of ownership is treated like an initial application for a fee of $500. We anticipate a change to the BHSO regulation that with this amendment will allow AODE licensed programs to no longer need a BHSO license to bill Medicaid for services. A BHSO license is $500 annually.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment proposes to increase the initial and annual licensure fees, which have remained unchanged since adoption of this administrative regulation on April 12, 2000. The additional revenue generated by the increased fees will assist, but not offset all of the cabinet's costs associated with the licensure and inspection of Kentucky's 394 AODE programs. Therefore, the cabinet will continue to absorb a significant portion of the programmatic costs.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts licensed outpatient and residential AODE programs and the Department for Behavioral Health, Developmental and Intellectual Disabilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 222.231 and 222.462

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There are approximately 394 outpatient and residential AODE programs that will be subject to an annual renewal fee of $500, however, under this amendment AODE licensed programs will no longer need a BHSO license to bill Medicaid for services. A BHSO license is $500 annually.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There are approximately 394 AODE programs that will be subject to an annual renewal fee of $500, however, AODE licensed programs will no longer need a BHSO license to bill Medicaid for services. A BHSO license is $500 annually.

(c) How much will it cost to administer this program for the first year? There are no new costs anticipated from this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There are no new costs anticipated from this administrative regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d-2 - 1320-8, 42 U.S.C. 290ee-3

(2) State compliance standards. KRS 222.231

(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 2 is a federal law governing confidentiality for individuals seeking treatment for substance use disorders. 45 C.F.R. Part 160, Part 164, and 42 U.S.C. 1320d-2 – 1320d-8 establish the HIPAA privacy rules to protect individuals' medical records and other personal health information. 42 U.S.C. 290ee-3 requires that the records of individuals undergoing treatment for substance use disorders are kept confidential.

(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 requirements that are more strict than federal laws or regulations.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Behavioral Health, Developmental and Intellectual Disabilities
Division of Behavioral Health
(Amended After Comments)

908 KAR 1:372. Licensure of residential alcohol and other drug treatment entities.

RELATES TO: KRS 222.231, 309.080(2)

STATUTORY AUTHORITY: KRS 222.231(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 222.231(2) requires the cabinet to promulgate administrative regulations to establish requirements and standards for treatment programs, including health and safety standards, patient care standards, and classification of alcohol and other drug programs according to type, range of services, and level of care provided. This administrative regulation establishes standards for residential alcohol and other drug treatment entities (AODE) that provide services to adult men, adult women, women with dependent children, or adolescents. Residential AODE programs include twenty-four (24) hour clinically managed residential withdrawal management, general residential treatment, family residential,

residential transitional living, and adolescent residential treatment programs.

Section 1. General Requirements. Each type of residential AODE program as described in Section 2 through Section 6 of this administrative regulation shall implement written policies for separate housing of adult and adolescent clients, and male and female clients in accordance with the following:

(1) Adult and adolescent clients shall be physically separated by floor, wing, or other physical barriers; and

(2) Male and female sleeping quarters shall be physically separated by floor, wing, or other adequate physical barriers, ensuring the clients' rights to privacy and dignity in treatment.

Section 2. Clinically Managed Residential Withdrawal Management. (1) In addition to the licensing requirements of 908 KAR 1:370, a program offering clinically managed residential withdrawal management shall accept and provide services only to clients meeting the:

(a) Diagnostic criteria for substance-related disorder as established by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) for alcohol, tobacco, and other drug use; and

(b) Dimensional criteria for clinically managed residential withdrawal management as established in the most recent version of The American Society of Addiction Medicine (ASAM) Criteria.

(2) Clinically managed residential withdrawal management services shall:

(a) Be delivered by staff who:

1. Are qualified to meet the needs of clients; and

2. Provide twenty-four (24) hour supervision, observation, and support for clients who are intoxicated or experiencing withdrawal;

(b) Include care for clients whose intoxication and withdrawal signs and symptoms require twenty-four (24) hour structure and support without the need for medically monitored inpatient withdrawal management services; and

(c) Include:

1. Use of established clinical protocols to identify clients who are in need of:

a. Medical services beyond the capacity of the facility; and

b. Transfer to an appropriate level of care;

2. Availability of specialized clinical consultation and supervision for biomedical, emotional, behavioral, and cognitive problems;

3. Protocols that shall be developed and supported by a physician knowledgeable in addiction medicine for use in determining the nature of any medical or nursing interventions required if a client's condition deteriorates and the client appears to need the care of a physician or nurse;

4. Availability of medical evaluation and consultation twenty-four (24) hours per day;

5. Affiliation with other levels of care; and

6. Ability to arrange for appropriate laboratory and toxicology tests.

(3) Staff shall include clinical staff trained and competent to implement physician-approved protocols for:

(a) Patient observation and supervision;

(b) Determination of appropriate level of care; and

(c) Facilitation of the client's transition to continuing care.

(4) Each clinician who is responsible for assessing and treating clients shall be able to obtain and interpret information regarding the needs of the clients, including:

(a) The signs and symptoms of alcohol and other drug intoxication and withdrawal;

(b) Appropriate treatment and monitoring of intoxication and withdrawal; and

(c) How to facilitate entry into ongoing care.

(5) A program providing clinically managed residential withdrawal management that supervises self-administration of medication shall have written policies and procedures on the steps involved for self-administration, including:

(a) Identification in the client record of medication that requires physician approval prior to use; and

(b) The name of the staff person who monitored the self-administration of the medication.

(6) Therapies offered by a program providing clinically managed residential withdrawal management shall include:

(a) Daily clinical services to assess and address the needs of each client, including the following if needed:

1. Medical services, including:

a. Medically assisted withdrawal; or

b. Medication assisted treatment, provided onsite or through referral;

2. Individual counseling;

3. Group counseling; or

4. Withdrawal support;

(b) A range of cognitive, behavioral, medical, mental health, and other therapies as needed to enhance a client's understanding of:

1. Addiction;

2. Co-occurring disorders;

3. Completion of the withdrawal management process; and

4. Referral to an appropriate level of care for continuing treatment;

(c) Withdrawal rating scale tables and flow sheets that include tabulation of vital signs if needed;

(d) Interdisciplinary individualized assessment and treatment;

(e) Health education services; and

(f) Services to families and significant others.

(7) Elements of the assessment and treatment planning shall include:

(a) An individualized treatment plan established in accordance with 908 KAR 1:370, Section 19, including:

1. Problem identification in dimensions two (2) through six (6) of the most recent version of the ASAM criteria;

2. Development of treatment goals and measurable treatment objectives; and

3. Activities designed to meet the treatment objectives and management of withdrawal symptoms;

(b) Daily assessment of:

1. Progress during withdrawal management; and

2. Any treatment changes;

(c) Transfer and discharge planning, beginning at the point of admission; and

(d) Referral and linkage arrangements for:

1. Counseling;

2. Medical care, including medication assisted treatment if not provided onsite;

3. Psychiatric care; and

4. Continuing care.

(8) Progress notes shall:

(a) Be maintained in the client record in accordance with 908 KAR 1:370, Section 17(4)(h);

(b) Reflect implementation of the treatment plan;

(c) Document the client's response to treatment; and

(d) Include each amendment of the treatment plan.

(9) A client shall continue with clinically managed residential withdrawal management until:

(a) Withdrawal signs and symptoms are sufficiently resolved so that the client can be safely managed at a less intensive level of care;

(b) The client's signs and symptoms of withdrawal have:

1. Failed to respond to treatment; or

2. Intensified so that transfer to a more intensive level of withdrawal management is indicated; or

(c) The client is unable to complete clinically managed residential withdrawal management despite an adequate trial, due to increasing depression, suicidal impulses, or other severe complication.

Section 3. General Residential Treatment Programs. (1) In addition to the licensing requirements in 908 KAR 1:370, a residential treatment program:

(a) Shall evaluate the client's need for each of the following at admission:

1. Alcohol and other drug abuse services;

2. Employment services;
3. Vocational education, training, or rehabilitation services;
4. Disability services;
5. Other health and human services; and
6. Assistance in developing daily living skills;

(b) Shall establish and implement a policy for off-site supervision and transportation of clients to services provided outside of the facility, which shall:

1. Indicate the method of transportation;
2. Address the security and accountability for each client and his or her personal possessions;
3. Address the transfer of client information to and from the provider of services;
4. Ensure that a copy of current registration and current insurance information is maintained on file for each vehicle used to transport clients;
5. Ensure that the name of each driver responsible for transporting clients is maintained on file;
6. Identify the employee who accompanies the client, if appropriate; and
7. Identify the destination for each client; and

(g) May provide clinically managed residential withdrawal management as established in Section 2 of this administrative regulation.

(2) A residential treatment program shall provide each client with education regarding:

(a) The disease of addiction;
(b) The client's diagnosis;
(c) The effects of alcohol and other drug abuse;
(d) The risks of exposure to human immunodeficiency virus (HIV), hepatitis, and other health consequences of substance use disorder;
(e) Family issues related to substance use disorder;
(f) Recovery support groups specific to addiction recovery;
(g) Medication assisted treatment; and
(h) Understanding the interactions between mental health and addiction, including the most common types of co-occurring disorders.

(3) Information or education about alcohol and other drug abuse, including recovery shall be made available to a client's family or significant other.

(4) A client shall have access to printed materials, appropriate to the client's literacy level, and audio and video materials that are:

(a) Presented multi-lingually on the basis of client composition of the facility; and
(b) Related to the treatment of alcohol and other drug abuse.

(5) A residential treatment program **client** shall **receive[~~ensure that each client spends~~]** at least **six (6)[~~seven (7)~~]** hours each day in structured activities, including participation in any of the following activities:

(a) Alcohol and other drug abuse education;
(b) Individual, group, or family counseling in which the client shall participate a minimum of ten (10) hours each week;
(c) On-site or off-site recovery support meetings;
(d) Life skills training;
(e) Vocational training or an educational activity; or
(f) Recreation.

(6) If counseling is provided in a group, there shall be a maximum of twelve (12) clients per clinician.

(7)(a) A residential treatment program shall provide a planned, diversified program of organized recreational activities that allow clients to participate on an individual or group basis as specified in the client treatment plan and coordinated with other client care services.

(b) Recreational activities shall be provided under the direction of staff as part of the client's schedule.

(8)(a) Progress notes shall be recorded in the client's **record[~~treatment plan~~]** following the delivery of a clinical service or individual counseling session and shall include:

1. The type of service provided, including the:
a. Date of the service; and
b. Length of the service;
2. A description of the client's response to the service; and
3. Clinical impressions including the clinician's assessment of the client's progress or lack of progress toward achieving the objectives established in the treatment plan.

(b) In addition to paragraph (a) of this subsection, a progress note shall be made each week to document the client's progress in:

1. Employment;
2. Pursuing employment;
3. Participation in vocational education, training, or rehabilitation activities;
4. Participation in recovery support groups;
5. Training in daily living and recovery supports; and
6. Following through on referrals to services, if needed.

(9) A written recovery plan shall be:

(a) Developed by the client and the treatment team to identify and promote aspects of continuing care for substance use disorder that are associated with success in recovery;
(b) Provided to the client after he or she has achieved the initial stabilization goals of treatment; and
(c) Based on the client's needs at discharge, including activities and any referrals to support recovery.

(10) A discharge summary shall be completed within thirty (30) calendar days of discharge, including the client's:

(a) Date of admission;
(b) Date of discharge;
(c) Presenting problem;
(d) Evaluation of alcohol and other drug abuse or dependency;
(e) Summary of treatment;
(f) Response to treatment;
(g) Referrals made to other organizations or providers; and
(h) Reason for discharge.

(11) Other than a personal care or housekeeping task, if a client performs work in the residential treatment program that is part of a therapeutic activity, the work shall be voluntary and consistent with the treatment plan.

(12) A residential treatment program shall have written policies and procedures on the use of medication, including:

(a) Documentation in the client record of any medications the client is currently prescribed and taking;
(b) Documentation in the client record of any over-the-counter medication the client is taking;
(c) Steps involved for self-administration of over-the-counter medication, including identification in the client record of medication that requires physician approval prior to use;
(d) **Documentation that any medications brought into the facility by a resident are not administered or allowed to be self-administered unless the medication has been identified and a written order to administer or allow for self-administration of the specific drug is given by the responsible prescribing practitioner[~~Written consent from the client, for physician verification, that the prescription or over-the-counter medication is not contraindicated with the client's treatment plan if the residential treatment program does not have a physician on staff~~]**;
(e) Documentation of the physician's verification in the client's record;
(f) Storage of all medications to ensure that all medications be kept in a locked, secure location inaccessible to clients;
(g) Administration of medication, including establishment of the times for administration of medication;
(h) Documentation in the client's record of self-administration of prescription or over-the-counter medication, including the:

1. Name of the medication;
2. Date and time of self-administration;
3. Dosage and amount of medication; and
4. Name of the staff person who monitored the self-administration of the medication.

(13) A residential treatment program shall have a first-aid kit with supplies necessary for use in responding to minor injury or illness.

(14)(a) Food services shall be provided in accordance with 902 KAR 45:005.

(b) A copy of the food service permit shall be maintained on

site.

(c) There shall be documentation that meal planning is approved by a registered dietician.

(d) Drinking water shall be freely available throughout the day, including mealtime.

(15) A residential treatment program shall be staffed twenty-four (24) hours per day, seven (7) days per week and have:

(a) A program manager, supervisor, or coordinator, including a designated staff person responsible for managing a program in the absence of the manager, supervisor, or coordinator;

(b) A sufficient number of personnel to meet client needs based on the:

1. Number of clients;

2. Need for assistance; and

3. Services delivered; and

(c) At least one (1) staff person on duty and awake at all times who is trained in:

1. Crisis intervention;

2. Cardiopulmonary resuscitation; and

3. Standard first aid.

(16) A residential treatment program shall ensure that in addition to the clients' rights established by 908 KAR 1:370, Section 16, the following clients' rights shall be fully protected:

(a) The right to visitation with family and friends, subject to written visiting rules and hours established by the program, except as provided in subsections (17) and (18) of this section;

(b) The right to conduct private telephone conversations, subject to written rules and hours established by the program, except as provided in subsections (17) and (18) of this section;

(c) The right to send and receive uncensored and unopened mail;

(d) The right to wear his or her own clothing subject to written program rules;

(e) The right to bring personal belongings, subject to limitation or supervision by the program;

(f) The right to communicate with his or her personal physician; and

(g) The right to practice his or her personal religion or attend religious services, within the program's policies and written policies for attendance at outside religious services.

(17) The administrator, program manager, or designee may impose limitations on any of the visitation or phone call procedures if limitations are:

(a) Therapeutically necessary; and

(b) Recorded in the client's record.

(18) The residential treatment program may require the client to open mail or packages in the presence of program staff for inspection.

(19) If more than one (1) type of residential AODE program operates in the same facility, staff may provide services in each program.

Section 4. Family Residential Program. (1) In addition to the requirements of 908 KAR 1:370 and Section 3 of this administrative regulation, a family residential program in which a client's children reside with the client:

(a) Shall provide parenting education to the client if identified in the client's treatment plan;

(b) Shall ensure and document that the children:

1. Are immunized at admission;

2. Show no signs of illness; and

3. Continue to receive primary medical care as needed during their stay at the facility;

(c) Shall develop and implement written policies to:

1. Include the maximum number of children permitted to reside in the facility at one (1) time;

2. Include the age of children permitted to reside in the facility;

3. Ensure that the needs of the children are assessed and met during treatment;

4. Ensure that the health, safety, and well-being of the children is protected; and

5. Require the client to sign a statement that outlines the client's responsibility for care of the client's child, including that:

a. The client shall have primary responsibility for ensuring the child's needs are met regarding:

(i) Food;

(ii) Clothing;

(iii) Hygiene;

(iv) Safety;

(v) Discipline;

(vi) Supervision; and

(vii) Obtaining services in response to a referral made on behalf of the child; and

b. The client shall make prior arrangements for the care of the child before leaving the facility without the child; and

(d) May provide clinically managed residential withdrawal management as established by Section 2 of this administrative regulation.

(2) A family residential program shall:

(a) Identify and provide information to the client regarding community resources, including education and child care;

(b) Provide education about the effect on families and children regarding abuse of alcohol or other drugs; and

(c) Provide organized recreational activities:

1. Under the direction of staff; and

2. Posted on a schedule.

Section 5. Residential Transitional Living Program. (1) In addition to the licensing requirements of 908 KAR 1:370, a residential transitional living program that provides counseling services on-site shall:

(a) Comply with the requirements established for general residential treatment programs in Section 3(1), (6), and (8) to (17) of this administrative regulation;

(b) Ensure that each client participates in counseling a minimum of five (5) hours per week; and

(c) Enable each client to attend recovery support meetings.

(2) A residential transitional living program that does not provide counseling services on-site shall:

(a) Comply with the requirements established for general residential treatment programs in Section 3(1)(a) and (b) and (d) through (f), and (8) through (17) of this administrative regulation;

(b) Ensure that a comprehensive biopsychosocial assessment is obtained on behalf of the client;

(c) Ensure that each client participates in counseling a minimum of five (5) hours per week;

(d) Enable each client to attend recovery support meetings;

(e) Have a program manager who may be responsible for more than one (1) facility and shall:

1. Be responsible for the day-to-day management of the program, including:

a. Supervising caseworkers; and

b. Monitoring the implementation of program policies and procedures;

2. Complete training in accordance with 908 KAR 1:370, Section 10(1); and

3. Meet the education and experience requirements of a clinical services supervisor in accordance with 908 KAR 1:370, Section 10(3), or have at least a bachelor's degree from an accredited college or university, in addition to:

a. 4,000 hours of work experience in the alcohol and other drug treatment field post degree; and

b. Eighty (80) hours of alcohol and other drug abuse training within four (4) years immediately prior to the date of assuming responsibility as a program manager or no longer than two (2) years immediately after assuming responsibility as a program manager;

(f) Have sufficient staff to ensure that **a staff person that meets the minimum requirements of a program manager[~~an appropriate staff person~~]** is responsible for managing a program in the absence of the program manager; and

(g) Have caseworkers who:

1. Shall be responsible for:

a. Coordinating clinical services in accordance with a client's treatment plan;

b. Monitoring a client's progress in relation to the treatment

plan;

c. Conducting training on daily living and recovery supports; and

d. Making referrals; and

2. Meet the training, education, and experience requirements of 908 KAR 1:370, Section 11(2) to (5).

Section 6. Adolescent Residential Treatment Program. (1) An adolescent residential treatment program shall be a freestanding residential facility or a distinct part of a facility in which care is provided to two (2) or more adolescent clients who are:

(a) Under eighteen (18) years of age; or

(b) Eighteen (18) to twenty-one (21) years of age, if placement in an adolescent program is determined to be the appropriate level of care upon completion of the assessment described by 908 KAR 1:370, Section 18(1) and (2).

(2) In addition to the requirements of 908 KAR 1:370 and Section 3 of this administrative regulation, an adolescent residential treatment program:

(a) Shall admit adolescents only to areas within the facility approved by the cabinet for adolescent occupancy;

(b) Shall ensure that areas for adolescents are physically separated from any part of a facility occupied by or accessible to adult clients;

(c) Shall ensure that adolescent clients in the facility be separated if the age range is more than five (5) years;

(d) Shall have no fewer than two (2) staff members present and on site at all times:

(e) Shall have at least one (1) staff member within sight and sound and responsible for the supervision of no more than:

1. Ten (10) adolescent clients during waking hours; and

2. Twenty (20) adolescent clients during sleeping hours;

(f) Shall provide or coordinate the provision of educational services; and

(g) May provide clinically managed residential withdrawal management as established in Section 2 of this administrative regulation.

(3) An adolescent residential treatment program shall:

(a) Make every effort to identify the resident's family dynamics, including family structure and patterns of relating, or interactions between family members;

(b) Engage and include the family in the resident's treatment as early as possible in accordance with 908 KAR 1:370, Section 9(9);

(c) Provide single family therapy, multi-family group therapy, and parental education sessions as clinically appropriate and as specified in the client's treatment plan;

(d) Assist the resident in developing a support system to help reinforce behavioral gains made during treatment; and

(e) Provide ongoing support with an emphasis on recovery supports.

(4) Educational services shall be provided by:

(a) The local school district in which the facility is located;

(b) An accredited private educational institution in the community; or

(c) An on-site school that:

1. Is operated by the facility and approved by the Kentucky Department of Education;

2. Is designed to maintain the educational and intellectual development of the adolescent;

3. If indicated, provides opportunities to remedy deficits in the educational level of an adolescent who has fallen behind as a result of involvement with substance use; and

4. Includes at least three (3) hours of instruction on days that education services are provided.

(5) Regardless of the method by which the educational services are delivered to clients, staff of the adolescent residential treatment program shall:

(a) Confer with teachers or their principals on the progress of each client; and

(b) If appropriate, encourage clients to become active in extracurricular school activities and make arrangements necessary to enable the client to participate.

(6) The adolescent residential treatment program shall ensure that any adolescent who legally is not attending school participates in a training program that provides:

(a) Necessary life skills;

(b) Vocational training; and

(c) Training on methods of job acquisition.

(7) Each resident shall be limited to no more than two (2) hours of entertainment-based screen time per day.

(8) Structured activities shall be developmentally appropriate to the resident.

(9) Food shall be served to residents in a common eating area and shall:

1. Include at least three (3) meals per day, served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast;

2. Include between-meal and unscheduled snacks;

3. Not be withheld as punishment and shall not be used as a reward;

4. Take into account the special dietary needs and tastes of residents, such as diabetes and allergies;

5. Be served in an amount appropriate to the age of the resident and include second servings, if requested; and

6. Not be served while viewing television or using electronics.

(10) The following practices shall be expressly forbidden:

(a) Corporal punishment;

(b) Use of restraints of any sort;

(c) Use of a behavior management room; and

(d) Sanctions that include verbal, mental, or physical abuse.

(11)(a) Computer and internet usage shall be monitored.

(b) Blocking software or other controls shall be used to restrict access to inappropriate web sites.

(12) A resident shall receive assistance with personal care and hygiene based upon his or her developmental skills.

Section 7. Infection Control. Each type of residential AODE program shall implement written policies and procedures for an infection control system, including orientation for all new personnel and annual in-service training for all personnel on proper hygiene related to infections prevalent among persons who use drugs.

Section 8. Physical Environment. (1) Each type of residential AODE program shall:

(a) Comply with building codes, ordinances, and administrative regulations that are enforced by city, county, or state jurisdictions;

(b) Be approved by the State Fire Marshal's office:

1. Prior to initial licensure; or

2. If the AODE changes locations;

(c) Within the program's total square footage, have at least 120 square feet of space for each client residing in the facility;

(d) **Have at least one (1) toilet and one (1) sink per eight (8) clients;**

(e) If licensed as a residential AODE program prior to the effective date of this administrative regulation, have at least **[**~~:~~

~~**1. One (1) toilet and one (1) sink per eight (8) clients; and**~~

~~**2.**~~**]** one (1) shower or tub per fifteen (15) clients;

(f)[~~**(e)**~~**]** If licensed as a residential AODE program after the effective date of this administrative regulation, have at least **[**~~:~~

~~**1. Two (2) toilets and two (2) sinks per eight (8) clients; and**~~

~~**2.**~~**]** one (1) shower or tub per (8) clients;

(g)[~~**(f)**~~**]** Provide space for a client to store clothing, linens, and personal belongings, including a receptacle that may be locked for the storage of personal property; and

(h)[~~**(g)**~~**]** Have separate rooms for the following:

1. Sleeping;

2. Dining;

3. Bathing and toileting;

4. Living and recreation;

5. Laundry;

6. Visiting; and

7. Private consultation and counseling, which shall be conducted in an area where a client is assured privacy and confidentiality.

(2) A client's bed shall have:

(a) A clean mattress; and

(b) Two (2) sheets, a pillow, and bed covering of sufficient quality to maintain resident comfort.

(3) The premises shall be well kept and in good repair and meet the following requirements:

(a) The facility shall ensure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps, and fences are in good repair;

(b) The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing, and electrical fixtures shall be in good repair; and

(c) Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly.

Section 9. Client Care Environment. (1) Each type of residential AODE program shall meet the following housekeeping and sanitation conditions and implement policies that reflect the following:

(a) The facility and its contents shall be clean to sight and touch and free of dirt and debris;

(b) All rooms shall be free of condensation, mold growth, and noxious odors;

(c) All equipment and materials necessary for cleaning, disinfecting, and sterilizing shall be available in the facility at all times, except as provided in subsection (3)(b) of this section;

(d) Thermometers, which are accurate to within three (3) degrees Fahrenheit shall be kept in a visible location in refrigerators, freezers, and storerooms used for perishable and other items subject to deterioration;

(e) Articles in storage shall be elevated from the floor and away from walls, ceilings, and air vents;

(f) Aisles in storage areas shall be kept unobstructed;

(g) Pest control methods that are safe for clients and staff shall be used to:

1. Minimize and eliminate the presence of rodents, flies, roaches, and other vermin in the facility; and

2. Prevent the breeding, harborage, or feeding of vermin;

(h) All openings to the outer air shall be effectively protected against the entrance of insects and other vermin;

(i) Toilet tissue, soap, and disposable towels or air driers shall be provided in each bathroom at all times, with soap and disposable towels or air driers provided at each hand washing sink;

(j) Bathrooms with multiple hand washing sinks shall provide at least one (1) soap dispenser and one (1) disposable towel dispenser or air drier for every two hand washing sinks;

(k) Except as provided in paragraph (j) of this subsection, a soap dispenser and towel dispenser shall be provided by each hand washing sink and utility sink throughout the facility;

(l) Mattresses, pillows, blankets, draperies, upholstery, and other fabrics or decorations shall be fire-resistant and flameproof;

(m) Latex foam pillows shall be prohibited;

(n) Equipment requiring drainage shall be drained to a sanitary connection;

(o) The temperature within client areas of the facility shall:

1. Be maintained at a minimum of seventy-two (72) degrees Fahrenheit; and

2. Not exceed eighty-two (82) degrees Fahrenheit;

(p) The facility shall maintain adequate ventilation in all areas used by clients; and

(q) The facility shall establish a written heat emergency action plan to be implemented if the indoor air temperature is eighty-two (82) degrees Fahrenheit or higher for four (4) consecutive hours.

(2) Each type of residential AODE program shall meet the following safety conditions and implement policies that reflect the following:

(a) Non-skid wax shall be used on all waxed floors;

(b) Throw rugs or scatter rugs shall not be used;

(c) All equipment shall be located in an unobstructed space that has been provided for operation;

(d) All household and cleaning products in the facility shall be identified, labeled, and securely stored in a cabinet, closet, or room that is inaccessible to clients;

(e) All furnishings shall be clean and in good repair, and mechanical equipment shall be in good working order; and

(f) All smoke detectors shall be fully operational.

(3) Each family residential program shall meet the following safety conditions in addition to the provisions set forth in subsections (1) and (2) of this section:

(a) Children shall not be exposed to lead-based paint hazards;

(b) Toxic chemicals, including cleaning agents shall be stored in locked cabinets or enclosed in areas not accessible to the children;

(c) All electrical outlets shall have protective covers;

(d) All fluorescent and incandescent light bulbs shall have protective covers or shields;

(e) All windows and other glass surfaces that are not made of safety glass and that are located three (3) feet above the floor or lower shall have protective guards;

(f) Non-permanent safety barriers shall be installed if the facility has stairs, ramps, balconies, porches, or elevated play areas;

(g) Materials and furniture for indoor and outdoor use shall be of sturdy and safe construction, be easy to clean and free of hazards;

(h) Children shall be kept away from hot stoves, irons and ironing boards, knives, glassware and other equipment within the facility that may cause injury;

(i) Poisons, insect traps, rodent traps, and similar products shall be kept out of reach of children; and

(j) All indoor and outdoor areas are maintained in a safe and sanitary manner.

WENDY MORRIS, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Justin Dearinger, email Justin.Dearinger@ky.gov, phone: 502-782-7212; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the licensure requirements for residential alcohol and other drug treatment entities (AODE).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 222.231(2), which requires the cabinet to promulgate administrative regulations to establish health, safety, and patient care standards for AODE programs according to type and range of services. Moreover, this administrative regulation is necessary to comply with HB 124 passed during the 2018 legislative session, a measure that required the cabinet to conduct a comprehensive review of all current state licensure and quality standards applicable to substance use disorder treatment programs and develop enhanced standards for treatment and recovery services, including residential services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 222.231(2) by establishing licensure requirements for AODE programs that provide residential services, including clinically managed residential withdrawal management, general residential, family residential, residential transitional living, or adolescent residential treatment services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing licensure requirements for residential AODE programs that provide clinically managed residential withdrawal management, general residential, family residential, residential transitional living, or adolescent residential treatment services.

(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 that prescribes and amends requirements that are currently set out in 908 KAR 1:370. However, notable changes include the following:

A new section on adolescent residential treatment programs because the current AODE regulation does not address programs that treat adolescents. For example, this administrative regulation clarifies that adolescent residential treatment programs must ensure that an age range of no greater than 5 years applies to adolescent clients, and there must be at least 1 staff member for no more than 10 adolescents during waking hours and 1 staff member for no more than 20 adolescents during sleeping hours;

This administrative regulation requires that clients spend at least 7 hours each day in structured activities. Within this daily requirement, clients must spend at least 10 hours each week in counseling, unless the program is a residential transitional living program, in which case the client must participate in counseling a minimum of five hours per week; and

The Cabinet revised outdated language where needed, such as replacing references to "detoxification programs" with "clinically managed residential withdrawal programs"

Based upon comments received in writing and at the public hearing held on February 25, 2019, the Cabinet has made the following substantive revisions in the proposed "Amended After Comments" administrative regulation:

Reduced in Section 3(5) the number of hours that clients in residential AODE programs must spend in structured activities from seven (7) to six (6) hours per day;

Clarified in Section 3(8) that progress notes must be kept in the client's record, rather than in the treatment plan;

Clarified in Section 3(12)(d) that documentation of any medications brought into the facility by a resident shall not be administered or allowed to be self-administered unless the medication has been identified and a written order for administration or self-administration is given by the responsible prescribing practitioner;

Clarified in Section 5(2)(f) that in the absence of a program manager, a staff person with equivalent qualifications will be responsible for managing the program; and

Clarified in Section 8(1) that for residential AODE programs that obtain a license after the effective date of this administrative regulations, the only physical environment change will be the requirement for one (1) tub or shower per eight (8) clients. Currently licensed residential AODE programs may continue to operate with one (1) tub or shower per fifteen (15) clients.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation that prescribes and amends requirements that are currently set out in 908 KAR 1:370.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation that prescribes and amends requirements that are currently set out in 908 KAR 1:370. This regulation conforms to the content of KRS 222.462(2)(a) by establishing a set of comprehensive quality standards and criteria based on nationally recognized and evidence-based standards for substance use disorder treatment and recovery programs.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation that prescribes and amends requirements that are currently set out in 908 KAR 1:370. This regulation will assist in the effective administration of the statutes by establishing licensure and quality standards for outpatient AODE programs. In addition, this amendment is being filed concurrently with 908 KAR 1:370, Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities, and 908 KAR 1:374, Licensure of nonhospital-based outpatient alcohol and other drug treatment entities, each of which establishes additional standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the approximately 99 licensed residential AODE programs. In an effort to engage external stakeholders, the Cabinet hosted a webinar with AODE licensees and other interested groups on October 11, 2018. A preliminary draft of this administrative regulation, 908 KAR 1:370, and 908 KAR 1:374 was distributed to stakeholders during that webinar and drafts of these regulations were sent via email and posted online. Subsequent feedback from stakeholders was taken into consideration by the Cabinet and used to make changes to the drafts during the development of these administrative regulations.

(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: Entities that operate residential AODE programs must demonstrate compliance with the standards established by this administrative regulation and 908 KAR 1:370. Changes for providers include:

A new section on adolescent residential treatment programs because the current AODE regulation does not address programs that treat adolescents. For example, this administrative regulation clarifies that adolescent residential treatment programs must ensure that an age range of no greater than 5 years applies to adolescent clients, and there must be at least 1 staff member for no more than 10 adolescents during waking hours and 1 staff member for no more than 20 adolescents during sleeping hours;

This administrative regulation requires that clients spend at least 6 hours each day in structured activities. Within this daily requirement, clients must spend at least 10 hours each week in counseling, unless the program is a residential transitional living program, in which case the client must participate in counseling a minimum of five hours per week;

Residential AODE programs must ensure that the client's level of care determination is based on the most recent version of the ASAM Criteria;

Residential AODE programs must screen for co-occurring disorders and treat or refer clients in need of co-occurring services; and

Must have written policies and procedures for implementation of:

A language access plan to address accommodation for communication access services;

A process for creating a trauma-informed environment to avoid practices that might retraumatize a client; and

If the facility provides services to clients under age eighteen (18), a process for ensuring that services and educational materials are developmentally appropriate and the client's family is involved in treatment to the extent possible and appropriate with the written consent of the client.

(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 new anticipated cost for providers. The licensure fees for residential AODE programs are established in 908 KAR 1:370.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities that demonstrate compliance with this administrative regulation and 908 KAR 1:370 will accrue the following benefits from this administrative regulation change versus the previous administrate regulations:

Standards are more closely aligned with ASAM criteria to ease certification and standardize care;

Withdrawal management is incorporated throughout the regulation similar to its use in care to allow easier understanding of requirements;

Many requirements were adjusted to be consistent with ASAM and with the requirements of other states; and

A fully accredited outpatient AODE program with a license in good standing will now be eligible to participate in Kentucky's Medicaid program without having to obtain a separate BHSO license.

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

(a) Initially: There is no anticipated initial cost to the administrative body to implement this regulation. The program was

already in place and administered under 908 KAR 1:370. The regulatory changes are not expected to result in any change in cost to the Cabinet.

(b) On a continuing basis: The program was already in place and administered under 908 KAR 1:370. The regulatory changes are not expected to result in any change in cost to the Cabinet.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies will be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation does not increase any fees, although the AODE application fee is increased in 908 KAR 1:370. No additional funding will be needed 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, although the AODE application fee is increased in 908 KAR 1:370.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the approximately 99 licensed residential AODE programs and the Department for Behavioral Health, Developmental and Intellectual Disabilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 222.231 and 222.462

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

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

(c) How much will it cost to administer this program for the first year? There will be no new 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 no new cost to administer this program for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Behavioral Health, Developmental and Intellectual Disabilities
Division of Behavioral Health
(Amended After Comments)

908 KAR 1:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities.

RELATES TO: KRS 198B.260, 218A.180, 218A.202, 222.231, 222.462, 21 C.F.R. 1301.72, 1301.75, 1301.91, 1301.92, 42 C.F.R. Part 8, 15 U.S.C. 1471

STATUTORY AUTHORITY: KRS 222.231(2) and (12), 222.462

NECESSITY, FUNCTION, AND CONFORMITY: KRS 222.231(2) requires the cabinet to promulgate administrative regulations to establish requirements and standards for treatment programs, including health and safety standards, patient care standards, and classification of alcohol and other drug abuse programs according to type, range of services, and level of care provided. KRS 222.231(12) requires the cabinet to promulgate administrative regulations to establish standards of operation for narcotic treatment programs. KRS 222.462 requires the cabinet to develop enhanced licensure and quality standards for substance use disorder treatment and recovery. This administrative regulation establishes standards for nonhospital-based alcohol and other drug treatment entities (AODE) that provide ambulatory withdrawal management, outpatient treatment services, intensive outpatient services, partial hospitalization, or office-based opiate treatment services. This administrative regulation further establishes standards for the operation of narcotic treatment programs in accordance with KRS 222.231(12) and 42 C.F.R. Part 8.

Section 1. Definitions. (1) "Approved controlled substance" means the drugs methadone, buprenorphine, or other FDA-approved drug used in the treatment of narcotic addiction in a Narcotic Treatment Program.

(2) "CHFS" or "cabinet" means the Cabinet for Health and Family Services.

(3) "CSAT" means the Center for Substance Abuse Treatment.

(4) "DEA" means the Drug Enforcement Administration.

(5) "Dose" means a one (1) day quantity of an approved controlled substance, administered on site at a narcotic treatment program, in not less than one (1) fluid ounce of an oral solution, formulated to minimize misuse by injection.

(6) "Drug screening" means the process by which a program determines the presence or the absence of drugs in the body fluids.

(7) "Main program" means the location where all administrative and medical information related to a narcotic treatment program is retained for the purpose of on-site reviews by federal agencies or the state narcotic authority.

(8) "Medication station" means any dosing location that obtains its drug supply from the main program site and retains all records (except dosing, drug screens) at the main location. Medication stations are not extension sites as described in 908 KAR 1:370 Section 2(1)(c).

(9) "Proposed program" means an individual or entity in the process of seeking a narcotic treatment license.

(10) "SNA" means the state narcotic authority. The Department for Behavioral Health, Developmental and Intellectual Disabilities is the SNA for Kentucky.

(11) "Take-home dose" means a quantity of an approved controlled substance which the client is eligible to take off the premises of a narcotic treatment program.

(12) "Treatment phase" means a stage in the client's progress through a narcotic treatment program's sequential treatment system.

(13) "Voluntary withdrawal management" means a medically supervised withdrawal from the approved controlled substance requested by a client of a narcotic treatment program.

Section 2. Ambulatory Withdrawal Management. (1) In addition to the licensing requirements of 908 KAR 1:370, an outpatient AODE that provides ambulatory withdrawal management or maintenance services shall accept and provide services only to clients meeting the:

(a) Diagnostic criteria for a substance-related disorder for alcohol, tobacco, and other drug use as established by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM); and

(b) Dimensional criteria for outpatient services as established in the most recent version of The American Society of Addiction Medicine (ASAM) Criteria.

(2) Ambulatory withdrawal management services shall:

(a) Be provided in regularly scheduled sessions;

(b) Be delivered in accordance with:

1. Clinical protocols established for ambulatory withdrawal management in the most recent version of The ASAM Criteria; or

2. Nationally recognized, evidence-based clinical protocols approved by the cabinet; and

(c) Include the following features:

1. Specialized psychological and psychiatric consultation and supervision for biomedical, emotional, behavioral, and cognitive problems as indicated;

2. Completion of a comprehensive medical history and physical examination of the client at admission;

3. Affiliation with other levels of care, including other levels of specialty addiction treatment for additional problems identified through the comprehensive biopsychosocial assessment required by 908 KAR 1:370, Section 18;

4. Appropriate laboratory and drug **screening**[~~testing~~]; and

5. Twenty-four (24) hour access to emergency medical consultation services if needed.

(3) Staff shall include:

(a) Physicians and licensed health practitioners acting within their scope of practice who, if not present on-site at the time of admission, shall be readily available to evaluate and confirm that ambulatory withdrawal management is safe for the client; and

(b) Clinical staff who shall be knowledgeable about the biopsychosocial dimensions of alcohol, tobacco, and other substance use disorders, including the signs and symptoms of alcohol and other drug intoxication and withdrawal.

(4) Therapies offered by ambulatory withdrawal management services shall include:

(a) Individual assessment;

(b) Medication or non-medication methods of withdrawal management;

(c) Monitoring, assessment, and management of signs and symptoms of intoxication and withdrawal by a physician or licensed health practitioner acting within his or her scope of practice;

(d) Patient education;

(e) Non-pharmacological clinical support;

(f) Involvement of family members or significant others in the withdrawal management process; and

(g) Discharge or transfer planning, including referral for counseling and involvement in community recovery support groups.

(5) A program shall establish an individualized treatment plan in accordance with 908 KAR 1:370, Section 19 that includes:

(a)[~~An individualized treatment plan established in accordance with 908 KAR 1:370, Section 19, including:~~

~~1.~~] Problem identification in dimensions two (2) through six (6) of the most recent version of The ASAM Criteria;

(b)[~~2.~~] Development of treatment goals and measurable treatment objectives;[~~and~~]

(c)[~~3.~~] Activities designed to meet the treatment objectives and management of withdrawal syndrome;

(d)[~~(b)~~] Daily assessment of:

1. Progress during withdrawal management; and

2. Any treatment changes;

(e)[~~(c)~~] Transfer and discharge planning, beginning at the point of admission; and

(f)[~~(d)~~] Referral and linkage arrangements for:

1. Counseling;

2. Medical care;

3. Psychiatric care; and

4. Continuing care.

(6) Progress notes shall:

(a) Be maintained in the client record in accordance with 908 KAR 1:370, Section 17(4)(h);

(b) Reflect implementation of the treatment plan;

(c) Document the client's response to treatment; and

(d) Include each amendment of the treatment plan.

(7) Withdrawal rating scale tables and flow sheets that include tabulation of vital signs shall be used as needed.

(8) Treatment of a client shall continue until:

(a) Withdrawal signs and symptoms are sufficiently resolved so that the client can participate in:

1. Self-directed recovery; or

2. Ongoing treatment without the need for further medical or nursing withdrawal management monitoring;

(b) The client's signs and symptoms of withdrawal have:

1. Failed to respond to treatment; and

2. Intensified so that transfer to a more intensive level of withdrawal management is indicated; or

(c) The client is unable to complete ambulatory withdrawal management despite an adequate trial, e.g. the client is experiencing intense craving and evidences insufficient coping skills to prevent continued alcohol or other drug use concurrent with the withdrawal management medication, indicating a need for more intensive services.

Section 3. Outpatient Treatment Services. (1) In addition to the licensing requirements of 908 KAR 1:370, an outpatient AODE that offers outpatient treatment services:

(a) Shall provide alcohol and other drug abuse counseling to each client, with counseling provided to no more than twelve (12) clients per clinician if provided in a group;

(b) Shall provide each client with education regarding:

1. The disease of addiction;

2. The client's diagnosis;

3. The effects of alcohol and other drug abuse;

4. The risks of exposure to human immunodeficiency virus (HIV), hepatitis, and other health consequences of substance use disorder;

5. Family issues related to substance use disorder; and

6. Relapse prevention;

(c) Shall refer each client to recovery support services specific to addiction recovery which may include:

1. Support groups;

2. Peer support;

3. Recovery housing;

4. Community supports;

5. Supported employment;

6. Co-occurring disorders; and

7. Medication assisted treatment;

(d) Shall have a direct affiliation with, or close coordination through referral to more intensive levels of care and medication management[~~if indicated~~];

(e) Shall have a procedure to inform clients of the availability of emergency services available twenty-four (24) hours a day, seven (7) days a week; and

(f) May provide additional therapies including:

1. Motivational enhancement;

2. Occupational and recreational therapy;

3. Psychotherapy; or

4. Medication assisted therapy.

(2) Staff who provide outpatient treatment services:

(a) Shall be able to obtain and interpret information regarding the client's biopsychosocial needs;

(b) Shall be knowledgeable about the biopsychosocial dimensions of alcohol, tobacco, and other substance use disorders, including assessment of the client's stage of readiness to change;

(c) Shall be capable of monitoring stabilized mental health problems and recognizing any instability in a client with co-occurring disorders; and

(d) May include physicians and other licensed health care practitioners acting within their scope of practice on staff if medication assisted therapy is provided.

(3) Progress notes shall:

(a) Be maintained in the client record in accordance with 908 KAR 1:370, Section 17(4)(h);

(b) Reflect implementation of the treatment plan;

(c) Document the client's response to therapeutic interventions for all disorders treated; and

(d) Include each amendment of the treatment plan.

(4) The client's discharge summary shall be completed within thirty (30) calendar days of discharge.

Section 4. Intensive Outpatient Program. (1) In addition to the licensing requirements of 908 KAR 1:370 and Section 3 of this administrative regulation, an outpatient AODE that offers intensive outpatient services shall ensure that the program provides a multi-modal, multi-disciplinary structured approach to services that are:

(a) More intensive than outpatient treatment services; and

(b) Provided a minimum of:

1.For adults:

a. Nine (9) hours per week; and

b. Given on no less than three (3) days **per week**; or

2. For adolescents:

a. Six (6) hours per week; and

b. Given on no less than two (2) days **per week**.

(2) Services shall include:

(a) Individual outpatient therapy;

(b) Group outpatient therapy;

(c) Family outpatient therapy, unless contraindicated;

(d) Crisis intervention; and

(e) Psycho-education during which the client or client's family member shall be provided with information regarding:

1.The client's diagnosis;

2. Reasons why a particular treatment might be effective for reducing symptoms; and

3. How to cope with the client's diagnosis or condition in a successful manner.

(3) A program shall:

(a) Maintain a client-to-staff ratio of no more than ten (10) clients to one (1) **staff[~~clinician~~]**;

(b) Establish an individualized treatment plan for each client in accordance with 908 KAR 1:370, Section 19 that focuses on stabilization and transition to a lower level of care;

(c) Provide access to a:

1. Board-certified or board-eligible psychiatrist for consultation, which may be delivered through the use of telehealth technology; and

2. Psychiatrist, other physician, or advanced practice registered nurse for medication prescribing and monitoring; and

(d) Provide each client with a schedule of all planned therapeutic activities or otherwise ensure that the schedule is conspicuously posted in a public area of the facility.

(4) If the program prepares meals on-site for a client who receives services for **at least[~~up to~~]** five (5) or more consecutive hours, the program shall be subject to inspection in accordance with 902 KAR 45:005.

Section 5. Partial Hospitalization. (1) In addition to the licensing requirements of 908 KAR 1:370, an outpatient AODE that offers partial hospitalization services shall be fully accredited by at least one (1) of the following:

(a) Joint Commission;

(b) Commission on Accreditation of Rehabilitation Facilities;

(c) Council on Accreditation; or

(d) Other nationally recognized accrediting organization with comparable standards.

(2) Partial hospitalization services shall:

(a) Be short-term, four (4) to six (6) weeks on average;

(b) Meet the same standards required for intensive outpatient services, except for Section 4(1)(b);

(c) Be provided at least five (5) hours a day and at least four (4) days per week; and

(d) Provide access to educational services for adolescent clients.

(3) An AODE program that provides partial hospitalization shall comply with 902 KAR 45:005 if the program provides meals directly to its clients.

Section 6. Office-based Opiate Treatment Services. (1) Excluding methadone-based treatment, a facility shall be licensed as an outpatient AODE that provides office-based opiate treatment (OBOT) services if:

(a) Any individual with ownership interest in the facility is not a Kentucky-licensed physician; and

(b) The facility employs or has an affiliation with a physician or advanced practice registered nurse who prescribes products containing buprenorphine or other FDA-approved drugs for the treatment of opioid use disorder to fifty (50) percent or more of the facility's patients.

(2) In addition to the licensing requirements of 908 KAR 1:370, an OBOT shall:

(a) Designate a medical director who shall:

1. Be responsible for the supervision of all medical staff and the administration of all medical services at the facility, including compliance with all federal, state, and local laws and administrative regulations regarding the medical treatment of opioid use disorder;

2. Be physically present at the facility at least twenty-five (25) percent of the time the facility is open to the public each week;

3. Conduct a monthly review of ten (10) percent of the medical charts for patients currently admitted at the facility and document each chart review; and

4. Not serve as medical director of more than three (3) OBOT facilities;

(b) Have sufficient medical staff on-site to provide the medical treatment and oversight necessary to serve patient needs, including a practitioner authorized to prescribe products containing buprenorphine or other FDA-approved drugs for the treatment of opioid use disorder on-site during all hours of operation;

(c) Ensure that each physician or advanced practice registered nurse complies with the prescribing and dispensing standards in accordance with 201 KAR 9:270 or 201 KAR 20:065 respectively for FDA-approved drugs used for the treatment of opioid addiction;

(d) Ensure that **a[~~each~~]** physician or advanced practice registered nurse documents in the patient's record whether the patient is compliant with prescribed dosing as evidenced by the results of:

1. A KASPER report released in accordance with KRS 218A.202(7)(e); and

2. Drug **screening[~~testing~~]**;

(e) Offer individual and group outpatient therapy;

(f) Monitor compliance with recommended non-medication therapies;

(g) Provide case management or care coordination services; and

(h) Implement pre-employment and ongoing random drug screening of all facility employees.

(3) Admission and discharge.

(a) Prior to admission to the OBOT facility, each prospective patient shall be evaluated to determine and document whether the patient meets the diagnostic criteria for an opioid use disorder as defined in the most recent version of the DSM. A prospective patient shall not be admitted unless he or she meets those criteria.

(b) The OBOT facility shall use evidence-based assessment and evaluation tools that have been peer reviewed and validated, including the most recent edition of:

1. ASAM placement criteria;

2. Addiction Severity Index;

3. Substance Abuse and Mental Health Services Administration (SAMHSA) Treatment Improvement Protocol**[~~(TIP) 40~~]**; or

4. Any other equivalent assessment and evaluation tool.

(c) Prior to receiving treatment at the facility, the patient shall acknowledge in writing having received education on:

1. Treatment options, including withdrawal management, and the benefits and risks associated with each treatment option;

2. The risk of neonatal abstinence syndrome and use of voluntary long-acting reversible contraception for all female patients of child-bearing age and potential;

3. Prevention and treatment of chronic viral illnesses, e.g. HIV and hepatitis;

4. Expected therapeutic benefits and adverse effects of treatment medication;

5. Risks for overdose, including drug interactions with central nervous system depressants, and relapse after a period of abstinence from opioids; and

6. Overdose prevention and reversal agents.

(d) An OBOT facility shall not provide any type of reward to a third party for referral of potential patients to the clinic.

(4) Comprehensive assessment. The facility shall complete a comprehensive assessment in accordance with 908 KAR 1:370, Section 18 and in accordance with peer reviewed medication assisted treatment guidelines developed by nationally recognized organizations, for example, SAMHSA and the American Society of Addiction Medicine.

(5) Treatment planning. An OBOT facility shall complete an individualized treatment plan for each patient in accordance with 908 KAR 1:370, Section 19, featuring a plan for aftercare that includes the development of a menu of appropriate treatment resources available to the patient in his or her community.

(6) Discharge.

(a) A discharge plan shall be completed at the time of the patient's discharge by the staff person who has primary responsibility for coordinating or providing for the care of the patient, including a final assessment of the patient's status at the time of discharge.

(b) If applicable, a parent or guardian, or responsible person may participate in aftercare and discharge planning.

(c) The reason for any patient not participating in aftercare and discharge planning shall be documented in the patient's record.

(d) The OBOT facility shall document if a patient discontinues services.

(e) Determination of the events that constitute a patient's discontinuation of services at an OBOT shall be at the discretion of the facility.

Section 7. Narcotic Treatment Programs. (1) In addition to the licensing requirements of 908 KAR 1:370, an outpatient AODE that operates a narcotic treatment program (NTP) using methadone to treat individuals with substance use disorder shall comply with:

(a) 42 C.F.R. Part 8; and

(b) The requirements of this section.

(2) An NTP requesting a change of location shall:

(a) Comply with 908 KAR 1:370, Section 4; and

(b) Provide the following information:

1. Any dosing procedural changes; and

2. Any drug distribution problems that may occur due to the relocation.

(3) Organization and operation.

(a) In addition to meeting the requirements of 908 KAR 1:370, Section 9, an NTP shall develop and comply with policies and procedures that include:

1. Waiting list criteria;

2. Data collection for participation in the program in accordance with 908 KAR 1:300;

3. A protocol that ensures the integrity of the chain of custody for all drug **screens[~~tests~~]**;

4. A protocol for voluntary and involuntary termination of a client's participation in the program, including reasons for termination for cause;

5. Requirements for the preparation and labeling of client doses in accordance with the requirements of subsection (10);

6. Quality assurance and utilization review;

7. A client identification system;

8. A system to prevent multiple program registrations;

9. Inventory maintenance;

10. A protocol for daily dosing schedules; and

11. Drug **screening[~~testing~~]** procedures that utilize random selection or unannounced collection.

(b) An NTP shall order approved controlled substances from the manufacturer or approved wholesalers in accordance with 42 C.F.R. Part 8.

(c) Policies for voluntary withdrawal management and involuntary termination from NTP treatment shall be in accordance with 42 C.F.R. Part 8.12.

(d) An NTP shall have and follow policies that prohibit recruitment of new clients into the program by offering:

1. A bounty;

2. Monetary, equipment, or merchandise rewards; or

3. Free services for individuals.

(e) An NTP shall implement the system of treatment phases outlined in subsection (12) of this administrative regulation.

(f) An NTP shall be open for dosing services seven (7) days a week with the optional exception of the following holidays:

1. New Year's Day, January 1;

2. Presidents Day;

3. Martin Luther King Day;

4. Easter Sunday;

5. Memorial Day, last Monday in May;

6. Independence Day, July 4;

7. Labor Day, first Monday in September;

8. Thanksgiving Day, fourth Thursday in November; and

9. Christmas Day, December 25.

(g) An NTP shall have dosing times sufficient to meet the needs of its clients.

(h) An NTP shall have a written emergency plan that complies with 908 KAR 1:370, Section 9 outlining the course of action in the event of a natural or manmade disaster or any sudden closing. The plan shall also include:

1. Alternate providers for each payment type **that the NTP accepts**; and

2. A communication plan to reach each client and provide information and instructions.

(i) The initial drug **screens[~~tests~~]** and confirmatory tests for drugs tested on behalf of the NTP shall meet the following standards:

1. Marijuana metabolites:

a. Initial screen 50ng/ml; and

b. Confirmation test 15ng/ml;

2. Cocaine metabolites:

a. Initial screen 300ng/ml; and

b. Confirmation test 150ng/ml;

3. Opiates metabolites:

a. Initial screen 300ng/ml; and

b. Confirmation test 300ng/ml;

4. Amphetamines:

a. Initial screen 1000ng/ml; and

b. Confirmation test of amphetamine 500ng/ml and methamphetamine confirmation test 500ng/ml;

5. Barbiturates:

a. Initial screen 300ng/ml; and

b. Confirmation test 300ng/ml; and

6. Benzodiazepines:

a. Initial screen 300ng/ml; and

b. Confirmation test 300ng/ml.

(4) Medication stations.

(a) Medication stations shall not require a separate license.

(b) To establish a medication station, the NTP shall submit to the SNA, an Application for License to Operate a Nonhospital-based Alcohol and Other Drug Treatment Entity (AODE) form incorporated by reference in 908 KAR 1:370.

(c) A medication station shall be located between forty-five (45) miles and ninety (90) miles from the main NTP.

(d) The medication station shall obtain its supply of approved controlled **substances[~~substance~~]** from the stocks of the main NTP.

(e) The medication station shall provide the following services:

1. Dosing; and

2. Drug screen collection.

(f) The program director shall develop a system to prevent clients from dosing at both the main NTP and the medication station.

(g) Other services shall not be provided at the medication station without prior approval of the CSAT and SNA.

(5) Personnel.

(a) An NTP shall have a program director who shall:

1. Have two years of experience in the treatment of addiction; and

2.a. Be certified by the Board of Certification of Alcohol and Drug Counselors;

b. Hold at least a master's degree in the field of addiction or a related field; or

c. Be a physician, **registered** nurse, **physician[~~physician's~~]** assistant, pharmacist, or nurse practitioner certified by the licensing subspecialty.

(b) The program director may be the program sponsor as required by 42 C.F.R., Part 8.

(c) The program director shall:

1. Be responsible for ensuring compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the facility;

2. Provide onsite supervision of employees;

3. Ensure the laboratory performing the testing required under this administrative regulation is approved by the SNA and is certified by the Centers for Medicare and Medicaid Services as a Clinical Laboratory Improvement Amendments (CLIA) certified laboratory; and

4. Ensure that initial drug **screens[~~tests~~]** and confirmatory tests for drugs tested on behalf of the program meet the standards in subsection (3)(i).

(d) An NTP shall have a medical director who shall be:

1. Licensed by the Commonwealth of Kentucky to practice medicine within the Commonwealth; and

2.a. A board eligible psychiatrist with three (3) years of experience in the provision of services to persons who have a substance use disorder; or

b. Board-certified as an addiction medicine specialist.

(e) The medical director shall function autonomously within an NTP free from any protocol imposed by an NTP, director, or any other entity except under the guidelines imposed by 42 C.F.R. Part 8 and this administrative regulation.

(f) The medical director shall be responsible for the NTP's adherence to federal, state, and local laws and administrative regulations pertaining to the operation of the facility.

(g) An NTP may have a program physician who shall be:

1. Licensed by the Commonwealth of Kentucky to practice medicine within the Commonwealth; and

2.a.**[~~A board eligible psychiatrist with three (3) years of experience in the provision of services to persons who have a substance use disorder;~~**

~~b.~~] Board-certified as an addiction medicine specialist; or

b. A person who has one (1) year[~~c. Have three (3) years~~] of experience in providing service to individuals with a substance use disorder**[~~, including one (1) year of experience in the treatment of opioid addiction~~]**.

(h) A program physician shall be under the supervision of the medical director
and shall function autonomously within the NTP free from any protocol imposed by any NTP, director, or any other entity except under the guidelines imposed by 42 C.F.R. Part 8 and this administrative regulation.

(i) A program physician shall be responsible for the NTP's compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the facility.

(j) The medical director may be the program physician.

(k) There shall be a minimum of one (1) medical director or program physician on staff for every 300 clients, or fraction thereof, enrolled in an NTP.

(l) The medical director or program physician shall:

1. Ensure there is evidence of physiologic dependence on narcotics for all clients admitted to the NTP;

2. Ensure there is a history of addiction, or that any exceptions to admissions criteria are approved by the SNA and documented in the client's record before the first dose is administered;

3. Ensure that appropriate medical histories and physical examinations have been performed before the first dose shall be administered;

4. Ensure that appropriate laboratory studies have been performed;

5. Review all laboratory testing results and documents;

6. Document, sign, or cosign all medical orders, within forty-eight (48) hours, including the first dose of **an approved controlled substance[~~narcotic drug or other approved medications~~]**;

7. Document, sign, or cosign all subsequent medication orders within forty-eight (48) hours, including dose increases and decreases, changes in frequency of take-home doses, emergency situations, or special circumstances;**[~~and~~]**

8. Ensure that a review and cosignature of all telephone or other verbal orders are documented within forty-eight (48) hours of the order**;[~~.~~]**

9. Supervise**[~~clinical~~]** staff responsible for preparation and administration of the approved controlled substances;

10. Ensure compliance with program procedures and administrative regulations; and

11. Order through the licensed NTP all:

a. Initial doses; and

b. Increases or decreases.

(m) An NTP shall hire dosing personnel who shall:

1. Hold a license as a registered nurse, licensed practical nurse, or pharmacist; and

2. Not be dually assigned as clinicians.

(n) An NTP shall provide dosing personnel in sufficient numbers to meet the needs of the clients during dosing hours.

(o) Dosing physicians and pharmacists shall comply with KRS 218A.180 related to labeling if preparing doses to be taken outside the program site.

(p) An NTP shall hire clinicians who meet the requirements of 908 KAR 1:370, Section 11.

(q) There shall be at least one (1) clinician for every forty (40) clients in the program.

(6) Security and control.

(a) The program director and dosing nurse supervisor or pharmacist shall conduct quarterly reviews to ensure compliance with this subsection and 42 C.F.R. Part 8.12.

(b) Security of the narcotic safe and the building perimeter shall be checked quarterly with the contracted security company.

(c) The safe shall be locked at all times while staff are not obtaining or restocking controlled substances.

(d)1. Inventory reconciliation shall be conducted at least quarterly;

2. All reconciliation documents shall be retained by the program for five (5) years; and

3. Five (5) percent or more of any inventory discrepancies shall be reported to the SNA and the DEA offices within forty-eight (48) hours of reconciliation.

(e) Dosing personnel shall count all new bottles of narcotic tablets before removing any for client doses.

(f) Any discrepancies in narcotic tablet count shall be reported to the SNA, DEA, CSAT, and the **cabinet[~~Office of the Inspector General~~]** within forty-eight (48) hours of the event.

(g) A system shall be in place to assure the NTP completes the DEA biennial inventory of narcotic drugs on hand.

(h) Order forms for controlled substances, the dosing records, and inventory reconciliation records shall conform with 42 C.F.R. Part 8.12 and shall be maintained in a locked, secured area separate from the storage site of the controlled substances.

(i) Quarterly, the program director or designee shall review a ten (10) percent random sample of client records for the following:

1. A consent to treatment form signed by the client; and

2. A release of information form signed by the client that includes:

a. A description of the specific type of confidential information to be obtained or released; and

b. The specific dates that the release is to cover.

(j) If the program director serves as a clinician, the medical director shall review a ten (10) percent random sample of the program director's client records for inclusion of the documents listed in subsection 6(i).

(k) An NTP shall retain on file documentation that quarterly reviews were conducted, which shall be available for review by regulatory agencies for five (5) years.

(7) Admission policies.

(a) The admitting physician for the NTP shall comply with the admission requirements of 42 C.F.R. Part 8.12.

(b) When a client applies for admission to an NTP the client shall be required to sign a release of information that authorizes a program to release or solicit information regarding the client's status in any other substance abuse program.

(c) In addition to complying with the requirements of 908 KAR 1:370, Section 16, an NTP shall:

1. Provide each client written information describing all facets of the program in a manner that the client understands; and

2. Explain the contents of all required federal forms to the client before he or she is asked to sign;

(d) At admission, readmission, and at six (6) month intervals for the first two (2) years of treatment, and as indicated clinically after two (2) years, an NTP shall give the client information on communicable diseases including:

1. Tuberculosis;

2. Hepatitis;

3. Sexually transmitted diseases; and

4. HIV/AIDS.

(e) A client shall have access to voluntary HIV testing at admission and when clinically indicated thereafter and shall receive HIV/AIDS pre-test and post-test counseling if the client elects to be tested.

(f) In order for an NTP to admit or continue to treat a client who is pregnant, the medical director or program physician shall determine and document in the client's record that the client is medically able to participate in the program.

(g) Pregnant individuals with an opiate use disorder shall be given priority for admission and services if the NTP has a waiting list.

(8) Client transfers.

(a) An NTP may accept clients transferring from another NTP if the client meets the criteria for admission in subsection (7) and in accordance with this subsection.

(b) The program physician or medical director at the receiving NTP shall review the client's records on an individual basis to determine the client's placement on the receiving program's client listing. Reviews for proposed transfers shall determine the client's:

1. Need;

2. Program placement availability; and

3. Circumstances for the transfer request.

(c) If a client from an out-of-state medication-assisted treatment program transfers to an NTP located in Kentucky, the NTP shall designate the client as a new admission or "entry phase" as described in subsection (12) of this administrative regulation unless other phase levels are approved by the SNA.

(d) The sending NTP shall:

1. Forward all relevant client records to the receiving NTP within seventy-two (72) hours of receipt of a request to transfer; and

2. Continue dosing until the client is enrolled at the receiving NTP.

(e) The receiving NTP shall:

1. Contact the sending NTP to confirm the client's enrollment**[at least twenty-four (24) hours]** prior to administering the client's initial dose at the receiving NTP; and

2. Include documentation in the client's medical record of the following:

a. Date of receipt of the client's records from the sending NTP, including reason for transfer; and

b. Verification that the client meets the admission criteria in subsection (7) of this section.

(9) Drug screens.

(a) Drug screen sample collection policies intended to prevent falsification shall be developed and followed.

(b) Drug screens shall be analyzed for the following drugs:

1. Approved controlled substance;

2. Cocaine;

3. Opiates;

4. Amphetamines;

5. Barbiturates;

6. Tetrahydrocannabinol;

7. Benzodiazepines;

8. Any other drug(s) that has been determined by the NTP or the SNA to be abused in that program's locality; and

9. Any other drugs that may have been abused by the client.

(c) Drug screens shall be reviewed by the treatment team monthly to determine the client's reduction in the use of unauthorized medications.

(d) Controlled substance medications shall be considered unapproved usage if they are being used by the client without a valid prescription.

(e) A drug screen that is negative for the approved controlled substances allowed to be used in the NTP shall be considered positive for unauthorized drug use.

(f) An NTP shall not use drug screens as the sole criteria for involuntarily terminating a client's participation in the program.

(g) When drug **screening[testing]** results are used, presumptive laboratory results shall be distinguished in the client record from results that are definitive.

(h) Samples used for drug screening purposes shall be handled in a manner that ensures client confidentiality.

(10) Dosing requirements.

(a) The dose prepared for a client shall be the quantity of approved controlled substances that is indicated on the client's narcotic sheet within the medical record.

(b) The dose shall be labeled with the exact quantity of narcotic drug ordered.

(c) Take-home doses shall be formulated in a manner that reduces the likelihood of injecting the dose.

(d) Take-home doses of the approved controlled substances shall be packaged in containers in accordance with 15 U.S.C. 1471.

(e) The label of take-home doses shall include the:

1. Name of the program;

2. Address and telephone number of the program;

3. Name of the controlled substance;

4. Name of the client;

5. Name of the physician ordering the substance;

6. Quantity of the controlled substance, unless the client has requested in writing that the quantity of the substance not be revealed to him or her;

7. Date of filling order; and

8. Instructions for medicating, including dosage amount and dates medication is to be taken.

(f) Dosing personnel shall not alter client doses without the medical director or program physician's order.

(g) Verbal dosing orders shall be reduced to writing and signed by the medical director or program physician within forty-eight (48) hours of the order's receipt.

(h) The medical record shall indicate any reason for dose changes and shall be signed by the medical director or program physician within forty-eight (48) hours of the order's receipt.

(11) Clients who are pregnant.

(a) If the medical director or program physician does not accept the responsibility for providing prenatal care for the term of the client's pregnancy, then the medical director or program physician shall refer the client to:

1. A primary care physician who practices obstetrics; or

2. An obstetrician.

(b) The medical director or program physician shall inform the physician accepting the referral of the client's participation in the NTP.

(c) The medical director or program physician shall ensure that appropriate arrangements have been made for the medical care of both the client and the child following the birth of the child.

(d) The medical director or program physician shall notify the pregnant client's primary care physician of any changes in the client's treatment.

(e) The program shall ensure that the following services are available for pregnant individuals and are a part of the treatment plan:

1. Nutritional counseling; and

2. Parenting training that includes information about:

a. Newborn care;

b. Handling a newborn;

c. Newborn health; and

d. Newborn safety.

(12) Treatment protocol phases.

(a) NTPs shall comply with the treatment phase system in paragraphs (e) through (j) of this subsection to achieve the goals of:

1. Reduced health problems;

2. Reduced criminal activity;
3. Increased productivity;
4. Stabilization of family life; and
5. Eventual drug-free living.
(b) Program infractions shall include:
a. Failed drug screens;
b. Disruptive behavior at the clinic site;
c. Threats to staff or other clients; or
d. Failure to attend scheduled dosing or counseling appointments.
(c) Client treatment plans shall be established, reviewed, and updated in accordance with 908 KAR 1:370, Section 19.
(d) The medical director or program physician shall sign the treatment plan within thirty (30) days.
(e) Entry phase. During the first ninety (90) days of treatment, all clients shall:
1. Attend clinic seven (7) times each week for observed ingestion of **an approved controlled substance[~~methadone~~]** at the clinic site;
2. Be provided weekly counseling sessions to support the implementation of their treatment plan;
3. Be informed about appropriate support groups; and
4. Provide an observed drug screen sample one (1) time per week on a random basis.
(f) Phase one (1).
1. In order for a client to enter phase one (1), the**:**
a. Client shall have participated in the Entry Phase for ninety (90) consecutive days; and
b. Client shall not have committed any program infractions for ninety (90) consecutive days.
2. Once the client enters phase one (1) the client shall:
a. Attend clinic six (6) times each week for observed ingestion of **an approved controlled substance[~~methadone~~]**;
b. Be eligible to receive a one (1) day take-home dose of **an approved controlled substance[~~methadone~~]**;
c. Be provided weekly counseling sessions to support the implementation of their treatment plan;
d. Provide an observed drug screen sample on a random basis at least every other week; and
e. Be encouraged to attend an appropriate support group.
(g) Phase two (2).
1. In order for a client to enter phase two (2), the client shall:
a. Have participated in phase one (1) for **ninety (90)[~~180~~]** consecutive days;
b. Not have committed any program infractions for 90 consecutive days;
c. Be:
(i) Pursuing or engaged in gainful employment;
(ii) Pursuing vocational training;
(iii) Attending school;
(iv) Engaged in volunteer work;
(v) Attending parenting classes if they are a parent at home with children; or
(vi) A client with disabilities or other circumstances which might prohibit this requirement and have submitted a written waiver request to the SNA justifying specific reasons for the request that was not denied; and
d. Have a treatment plan to meet any special needs, including disabilities.
2. Clients in phase two (2) shall:
a. Attend clinic five (5) times each week for observed ingestion of **an approved controlled substance[~~methadone~~]**;
b. Be eligible to receive up to two (2) days of take-home doses of **an approved controlled substance[~~methadone~~]**;
c. Provide an observed drug screen sample randomly on a monthly basis, or more frequently if their treatment plan requires;
d. Be provided monthly counseling sessions, or more frequently if their treatment plan requires; and
e. Be encouraged to attend appropriate support groups outside the clinic.
(h) Phase three (3).
1. In order for the client to enter phase three (3), the client shall:
a. Have participated in phase two (2) for **ninety (90)[~~270~~]** consecutive days:
b. Not have committed any program infractions for **ninety (90)[~~180~~]** consecutive days; and
c. Have met the same entry criteria requirements as noted in phase two (2).
2. Clients in phase three (3) shall:
a. Attend clinic three (3) times each week for observed ingestion of **an approved controlled substance[~~methadone~~]**;
b. Be eligible to receive up to two (2) days of take-home doses of **an approved controlled substance[~~methadone~~]**;
c. Provide an observed drug screen sample **randomly** on a **monthly[~~random~~]** basis,**[~~every other month,~~]** or more frequently if their treatment plan requires;
d. Be provided monthly counseling sessions, or more frequently if their treatment plan requires; and
e. Be encouraged to attend appropriate support groups outside clinic.
(i) Phase four (4).
1. In order for the client to enter phase four (4), the client shall have:
a. Successfully completed phase three (3); and
b. Adhered to the requirements of the maintenance treatment program for **twelve (12)[~~eighteen (18)~~]** consecutive months.
2. Clients in phase four (4) shall:
a. Be dosed at the clinic site two (2) days per week for observed ingestion of **an approved controlled substance[~~methadone~~]**;
b. Be eligible for up to three (3) days of take-home doses of **an approved controlled substance[~~methadone~~]**;
c. Be provided an appropriate number of counseling sessions, which shall be:
(i) Based on the clinical judgement of the program physician and program staff; and
(ii) No less than one per month; and
d. Provide an observed drug screen sample **randomly on a monthly basis[~~on a random basis, quarterly~~]**, or more frequently if their treatment plan requires.
3. Prior to successful completion of phase four (4), a plan shall be developed which shall assist the client toward a drug free treatment regimen for continued support.
(j) Phase five (5).
1. In order for the client to enter phase five (5), the client shall have:
a. Successfully completed phase four (4); and
b. Adhered to the requirements of the maintenance treatment program for two (2) consecutive years.
2. Clients in phase five (5) shall:
a. Be dosed at the clinic site one (1) day per week for observed ingestion of **an approved controlled substance[~~methadone~~]**;
b. Be eligible for up to six (6) days of take-home doses of **an approved controlled substance[~~methadone~~]**;
c. Be provided an appropriate number of counseling sessions, which shall be:
(i) Based on the clinical judgement of the program physician and program staff; and
(ii) No less than one per month; and
d. Provide an observed drug screen sample on a random basis, **no less than eight (8) times per year[~~every 180 days~~]**, or more frequently if their treatment plan requires.
(13) Take home dose restrictions and terminations.
(a) In determining the client's take-home medications, the medical director or program physician shall act in accordance with 42 C.F.R. Part 8.12 and subsections (7) through (13) this section.
(b) An NTP shall restrict a client's take-home dosage privileges by moving the client back at least one (1) step level on the schedule for take-home dosages if the client's drug screening results disclose the unauthorized presence any substance described in subsection (9)(b) of this section.
(c) An NTP shall restrict a client's take-home dosage by moving the client back on the take-home dosage schedule if the medical director or program physician concludes that the client is no longer a suitable candidate for take-home privileges as

presently scheduled.

(d) An NTP shall revoke a client's take-home privileges for not less than thirty (30) days and shall require the client to ingest each dosage at the facility for any of the following reasons:

1. The client's drug screening discloses an absence of the controlled substance prescribed by the program;

2. The client is discovered to be misusing medication, as defined in subparagraph 5. of this paragraph;

3. The client attempts to enroll in another NTP;

4. The client alters or attempts to alter a drug screen; or

5. The client is not satisfactorily adhering to the requirements of the NTP by the following:

a. The client has not complied with the rules of the NTP;

b. There is indication that the client has repeatedly used drugs improperly;

c. The client is sharing, giving away, selling, or trading his or her **approved controlled substance[~~methadone~~]** dosage;

d. The client is not ingesting his or her **approved controlled substance[~~methadone~~]** dose in accordance with treatment program rules;

e. There is indication that the client is selling, distributing, or otherwise involved with illicit drugs and their use; or

f. The client is not participating in an educational, vocational, or home-making activity.

(e) A client whose daily dosage is twenty-five (25) milligrams or less shall be exempt from subparagraph (c)1. of this subsection.

(f) A client whose take-home privileges were revoked or restricted may regain take-home privileges according to the following schedule:

1. Phase one (1) – satisfactory adherence for at least thirty (30) days;

2. Phase two (2) – satisfactory adherence for at least thirty (30) days after regaining phase one (1) privileges;

3. Phase three (3) – satisfactory adherence for at least thirty (30) days after regaining phase two (2) privileges;

4. Phase four (4) – satisfactory adherence for at least thirty (30) days after regaining phase three (3) privileges; and

5. Phase five (5) – satisfactory adherence for at least thirty (30) days after regaining phase four (4) privileges.

(g) This subsection shall not be used to circumvent the requirements of this administrative regulation. A client shall not be advanced to a phase level pursuant to this subsection unless **the client[~~he~~]** has previously been at that phase level after having satisfied the requirements of each phase.

(h) Treatment shall be continued as long as it is medically necessary based upon the clinical judgment of the medical director or program physician and staff.

(i) Scheduled withdrawal shall be under the immediate direction of the medical director or program physician and shall be individualized.

(j) A client may voluntarily terminate participation in an NTP even though termination may be against the advice of the NTP.

(k) Except as noted in subsection (15)(e), either voluntary or involuntary termination shall take place over a period of time not less than fifteen (15) days, unless:

1. The medical director or program physician deems it clinically necessary to terminate participation sooner and documents the reason in the client's record; or

2. The client requests in writing a shorter termination period.

(14) Exceptions.

(a) The medical director or program physician may grant an exception to the criteria for take-home dosages for any of the following reasons:

1. The client has a serious physical disability which would prevent frequent visits to the program facility; or

2.a. The client is subject to an exceptional circumstance such as acute illness, family crisis, or necessary travel; and

b. Hardship would result from requiring exact compliance with the step level schedule set out in subsection (12) of this section of this administrative regulation.

(b) Exception to the criteria for take-home dosages shall

1. Be subject to the limitations in this administrative regulation; and

2. Have written approval from the SNA which shall be filed in the client record.

(c) If a client must travel out of the program area, the medical director or program physician shall attempt to arrange for the client's daily dosage to be received at another program in lieu of increasing take-home dosages.

(d) The medical director or program physician shall document in the client's record the granting of any exception and the facts justifying the exception.

(e) Each program shall maintain a separate record for all exceptions granted.

(f) The SNA shall not grant additional exceptions, except in cases of medical emergency or natural disaster, such as fire, flood, or earthquake.

(g) Patient take home exceptions shall be entered into the Substance Abuse and Mental Health Services Administration's system in accordance with its requirements.

(h) Emergency Dosing.

1. Under emergency conditions a program may issue take-home doses in accordance with this subsection.

2. Within forty-eight (48) hours after administration of the first emergency dose, an NTP shall:

a. Notify the SNA in writing;

b. Submit justification of the emergency dose or doses; and

c. Request permission for any subsequent dose after the first two doses.

3. Subsequent emergency doses shall not be given unless permission is received by the SNA.

4. This request shall include the:

a. Number of take-home doses requested;

b. Reason for the request;

c. Client's standing in program phases;

d. Client's adherence to program policies; and

e. Total length of time the client has been enrolled at the NTP.

(15) Client program compliance.

(a) If a client commits a program infraction, the counseling staff shall review and modify the treatment plan to assist the client in complying with program policies.

(b) If a client continues to commit infractions and the medical director or program physician determines additional intervention is warranted, the director or physician may:

1. Move the client back to an earlier treatment phase; or

2. Limit or revoke the client's take-home privileges.

(c) If the client continues to commit program infractions, the client may be involuntarily terminated from the program based on the recommendation of the medical director or program physician.

(d) A client's participation in an NTP may be involuntarily terminated for cause, which may include:

1. Polydrug abuse;

2. Diversion of **an approved controlled substance [~~methadone~~]**;

3. Violence or threat of violence to program staff or other clients in the program; or

4. Dual enrollment in another NTP.

(e) If the medical director or program physician determines that the client's continued participation in the program creates a physically threatening situation for the staff or other clients, the client's participation may be terminated immediately.

(f) A client shall be given written notice of a decision to terminate his or her participation in the program which shall include the reasons for the termination.

(16) Program monitoring. If an NTP fails to comply with the requirements in this administrative regulation, the SNA may take action in accordance with 908 KAR 1:370, Sections 5 and 20. In addition to the authority to deny, suspend, or revoke a license in accordance with 908 KAR 1:370, the SNA may:

(a) Order the NTP to discontinue all or part of the take-home doses of any approved controlled substance used in the NTP;

(b) Restrict the NTP's take-home procedures to the provision of emergency take-home doses in accordance with subsection (14); or

(c) Order the NTP to discontinue the utilization of any drug approved for use in narcotic treatment programs.

(17) Waivers. An NTP may request a waiver from the SNA from any requirement of this administrative regulation.

(a) This application for a waiver shall:

1. Be in the form of a letter to the SNA;

2. Identify the specific sections of this administrative regulation for which a waiver is being sought; and

3. Give the rationale for the request.

(b) If a waiver pertains to a client, a copy of the waiver request and response shall become part of the client's permanent record.

(c) An application for a waiver request shall be mailed to: Kentucky State Narcotic Authority Department for Behavioral Health, Developmental and Intellectual Disabilities, 275 East Main Street, Frankfort, Kentucky 40621.

(d) A waiver shall expire twelve (12) months from the date the waiver is granted unless the SNA gives an earlier expiration date.

(e) A waiver given prior to the effective date of this administrative regulation shall expire on the effective date of this administrative regulation.

Section 8. Physical Environment. (1) Accessibility. An outpatient AODE shall meet requirements for making buildings and facilities accessible to and usable by individuals with physical disabilities in accordance with KRS 198B.260 and 815 KAR 7:120.

(2) Fire safety. An outpatient AODE shall be approved by the State Fire Marshal's office prior to initial licensure or if the AODE changes location.

(3) Physical location and overall environment.

(a) An outpatient AODE shall:

1. Comply with building codes, ordinances, and administrative regulations that are enforced by city, county, or state jurisdictions;

2. Display a sign that can be viewed by the public that contains the facility name, hours of operation, and a street address;

3. Have a publicly listed telephone number;

4. Have a dedicated phone number to send and receive faxes with a fax machine that shall be operational twenty-four (24) hours per day or use encrypted electronic messaging technology;

5. Have a reception and waiting area;

6. Provide a restroom for client use; and

7. Have an administrative area.

(b) The condition of the physical location and the overall environment shall be maintained in such a manner that the safety and well-being of clients, personnel, and visitors are assured.

(4) Additional requirements for NTPs.

(a) The building used for the NTP shall meet the requirements of 21 C.F.R. 1301.74(j).

(b) The waiting area shall be separated from the dosing area to permit each client privacy and confidentiality at the time of dosing.

(c) The dosing area shall be clean and sanitary and shall contain:

1. A sink;

2. Hot and cold running water; and

3. Pill-counting trays if tablets are being used.

(d) The security and floor plan of the dosing area shall be in accordance with 21 C.F.R. 1301.72.

(e) The facility shall have two (2) restrooms which shall be accessible to clients with disabilities.

(f) Restrooms available to clients to provide urine specimens shall be:

1. Secure;

2. Private;

3. Clean; and

4. Sanitary.

(g) The building shall be secured by a local security company approved by the DEA and the SNA.

(h) There shall be a minimum of two (2) panic buttons or similar devices for each NTP with:

1. One (1) in the reception area; and

2. One (1) in the dosing area.

(i) There shall be a telephone with an outside line accessible in the dosing area.

(j) Internal security shall meet the requirements of 21 C.F.R. 1301.74(b), (h), (i), (j), (k); 1301.91; 1301.92 and shall be installed only after consultation with the DEA and the SNA.

(k) Parking spaces at the clinic site shall be adequate to accommodate the maximum number of clients expected to be at the clinic site at one (1) time.

WENDY MORRIS, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 12, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Justin Dearinger, email Justin.Dearinger@ky.gov, Phone 502-782-7212; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the licensure requirements for nonhospital-based outpatient alcohol and other drug treatment entities (AODE).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 222.231(2) and (12), which requires the cabinet to promulgate administrative regulations to establish health, safety, and patient care standards for AODE programs according to type and range of services, including facilities that operate narcotic treatment programs. Moreover, this amendment is necessary to comply with HB 124 passed during the 2018 legislative session, a measure that required the cabinet to conduct a comprehensive review of all current state licensure and quality standards applicable to substance use disorder treatment programs and develop enhanced standards for treatment and recovery services, including outpatient and medication-assisted treatment services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 222.231(2) by establishing licensure requirements for AODE programs that provide outpatient services, including ambulatory withdrawal management, general outpatient treatment, intensive outpatient services, or partial hospitalization. This administrative regulation also conforms to the content of KRS 222.231 and 222.462 by establishing licensure requirements for programs that operate non-physician owned facilities that provide office-based opiate treatment services to fifty (50) percent or more of the facility's patients or operates as a narcotic treatment program utilizing methadone or buprenorphine formulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing licensure requirements for outpatient AODE programs.

(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 that prescribes and amends requirements that are currently set out in 908 KAR 1:340 and 1:370. However, notable changes include the following:

908 KAR 1:370 currently in effect addresses "detoxification programs" that operate on a twenty-four (24) hour basis. Therefore, the Cabinet added a new section to this administrative regulation to establish standards for programs that provide ambulatory withdrawal management services in outpatient AODE settings; and

The Cabinet clarified in this administrative regulation that a facility must be licensed as an outpatient AODE if any individual with ownership interest in the facility is not a Kentucky-licensed physician and the facility employs or has an affiliation with a physician or APRN who prescribes buprenorphine or other FDA approved drugs to 50% or more of the facility's patients.

Based upon comments received in writing and at the public hearing held on February 25, 2019, the Cabinet has made the

following substantive revisions in the proposed "Amended After Comments" administrative regulation:

Changed the term "drug testing" to "drug screening" for consistency with the defined term;

Removed redundant and unneeded language;

Added the term "per week" to clarify services were being discussed as per week;

Changed the clinician to client ratio to staff to client ratio to be consistent with other state administrative regulations;

Clarified only AODEs providing meals directly to clients have to comply with 902 KAR 45:005;

Removed a reference to the specific version of SMHSA TIP and left it so it references the latest version;

Clarified that in an emergency, an NTP only has to find alternate providers that accept payment they accept themselves;

Clarified the term "nurse" means registered nurse;

Changed the requirements for program physicians to be licensed and only needing one (1) year of experience treating SUD;

Changed several terms to "approved controlled substance" for consistency with the defined term;

Removed the term "clinical" from staff who prepare and administer approved controlled substances;

Specified that reports go to the Cabinet and not a specific agency;

Removed the requirement for NTPs to give 24 hour notification prior to dosing a transferred client;

Changed the NTP phase timelines for consistency with current practice;

Changed requirements for drug screenings to be consistent with federal law; and

Added waiver language that exists in the current NTP regulation but added a 12-month expiration and an expiration of all waivers when this administrative regulation becomes effective.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation that prescribes and amends requirements that are currently set out in 908 KAR 1:340 and 1:370. This regulation is necessary to comply with HB 124 passed during the 2018 legislative session, a measure that required the cabinet to conduct a comprehensive review of all current state licensure and quality standards applicable to substance use disorder treatment programs and develop enhanced standards for treatment and recovery services, including residential, outpatient, and medication-assisted treatment.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation that prescribes and amends requirements that are currently set out in 908 KAR 1:340 and 1:370. This regulation conforms to the content of KRS 222.462(2)(a) by establishing a set of comprehensive quality standards and criteria based on nationally recognized and evidence-based standards for substance use disorder treatment and recovery programs.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation that prescribes and amends requirements that are currently set out in 908 KAR 1:340 and 1:370. This regulation will assist in the effective administration of the statutes by establishing licensure and quality standards for outpatient AODE programs. In addition, this amendment is being filed concurrently with 908 KAR 1:370, Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities, and 908 KAR 1:372, Licensure of residential alcohol and other drug treatment entities, each of which establishes additional standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the approximately 295 licensed outpatient AODE programs. In an effort to engage external stakeholders, the Cabinet hosted a webinar with AODE licensees and other interested groups on October 11, 2018. A preliminary draft of this administrative regulation, 908 KAR 1:370, and 908 KAR 1:372 was distributed to stakeholders during that webinar and drafts of these regulations were sent via email and posted online. Subsequent feedback from stakeholders was taken into consideration by the Cabinet and used to make changes to the drafts during the development of these administrative regulations.

(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: Entities that operate outpatient AODE programs must adhere to the following requirements, which are changes from the previous administrative regulations:

For narcotic treatment programs licensed as an outpatient AODE, the process to apply for a license, apply for a medication station, and notify the Cabinet of changes in ownership has been clarified and is now the same as for all other AODEs;

If a client is transferring from one narcotic treatment program to another, the programs will be required to communicate about the client and coordinate the transfer to avoid missed or duplicate doses;

Outpatient AODE programs must ensure that the client's level of care determination is based on the most recent version of the ASAM Criteria and that diagnosis must be made by appropriately licensed treatment staff in accordance with the most recent version of the DSM;

Outpatient AODE programs must screen for co-occurring disorders and treat or refer clients in need of co-occurring services;

A language access plan to address accommodation for communication access services if required; and

A process for creating a trauma-informed environment to avoid practices that might retraumatize a client if required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The licensure fees for outpatient AODE programs are established in 908 KAR 1:370. No other costs are anticipated with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities that demonstrate compliance with this administrative regulation and 908 KAR 1:370 will accrue the following benefits from this administrative regulation change versus the previous administrate regulations:

Standards are more closely aligned with ASAM criteria to ease certification and standardize care;

Withdrawal management is incorporated throughout the regulation similar to its use in care to allow easier understanding of requirements;

A new Phase 5 for NTPs was created for clients and providers to decrease the number of required visits at a later stage of treatment;

Drug screenings were broadened to include all types of drug screenings so that providers would not be restricted to certain methods, and screening frequency was reduced in later stages of treatment;

The requirement that AODEs obtain MOAs with other community agencies before opening has been revised to require only that the AODE communicate with those agencies.

The requirement that AODEs allow clients to appeal the provider's termination of services has been deleted.

NTPs will no longer need an AODE license and an NTP certification, only an AODE license;

Many requirements were adjusted to be consistent with ASAM and with the requirements of other states;

A fully accredited outpatient AODE program with a license in good standing will now be eligible to participate in Kentucky's Medicaid program without having to obtain a separate BHSO license; and

In response to requests from providers, partial hospitalization has been added as a service that may be provided in the outpatient AODE setting and AODE programs that offer partial hospitalization must be fully accredited by the Joint Commission, Commission on Accreditation of Rehabilitation Facilities, Council on Accreditation, or an equivalent accrediting organization.

(5) Provide an estimate of how much it will cost the

administrative body to implement this administrative regulation:

(a) Initially: There is no anticipated initial cost to the administrative body to implement this regulation. The program was already in place and administered under 908 KAR 1:340 and 1:370. The regulatory changes are not expected to result in any change in cost to the Cabinet.

(b) On a continuing basis: The program was already in place and administered under 908 KAR 1:340 and 1:370. The regulatory changes are not expected to result in any change in cost to the Cabinet.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies will be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation does not increase any fees, although the AODE application fee is increased in 908 KAR 1:370. No additional funding will be needed 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, although the AODE application fee is increased in 908 KAR 1:370.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the approximately 295 licensed outpatient AODE programs and the Department for Behavioral Health, Developmental and Intellectual Disabilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 222.231 and 222.462

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

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

(c) How much will it cost to administer this program for the first year? The program is already in place and is currently administered under 908 KAR 1:340 and 1:370. There will be no new cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? The program is already in place and is currently administered under 908 KAR 1:340 and 1:370. There will be no new cost 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:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 C.F.R. Part 8

2. State compliance standards. KRS 222.231 and 222.462

3. Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 8 establishes the Federal guidelines for opioid treatment programs.

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 impose stricter, additional, or different requirements than those required by federal mandate. 908 KAR 1:340 is being repealed and the requirements added to this administrative regulation. All of the stricter requirements are currently in place in 908 KAR 1:340. Some requirements remain the same and some requirements will be less stringent that what is currently in place. The following requirements are different than the federal requirements:

Interim maintenance is not permitted;

This regulation requires prospective NTPs to attempt to communicate with local agencies. This requirement, while stricter than federal law, is actually less stringent than the current requirement for MOAs with local agencies;

Treatment phases are set;

Drug screening policies;

Credentials for program sponsor and medical director;

Security and inventory audits;

Take home procedures; and

Monitoring and violations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Due to Kentucky's continuing opioid epidemic, the Cabinet has imposed these requirements since the state began regulating NTPs in 1996. These stricter and additional requirements are to:

Improve the quality of care for clients;

Improve the health, safety, and welfare of clients and staff; and

Improve the success rate of treatment and reduce the opioid epidemic.

Research of other states in Kentucky's region have shown using the minimum federal standards do not have the same effect as stricter standards in the areas of safety, recovery, controlled trafficking of prescribed drugs, and reduction in the number of individuals needing services.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support
(Amended After Comments)

921 KAR 2:015. Supplemental programs for persons who are aged, blind, or have a disability.

RELATES TO: KRS Chapter 194A, 202A.011(12), 205.245, 209.020(4), 216.530, 216.557(1), 216.750(2), 216.765(2), Chapter 216B, Chapter 514, 20 C.F.R. 416.120, 416.212, 416.2030, 416.2095, 416.2096, 416.2099, 8 U.S.C. 1621, 1641, 42 U.S.C. 1381-1383

STATUTORY AUTHORITY: KRS 194A.050(1), 205.245, 42 U.S.C. 1382e-g

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the citizens of the Commonwealth and to operate the programs and fulfill the responsibilities of the cabinet. 42 U.S.C. 1382 authorizes the cabinet to administer a state funded program of supplementation to all former recipients of the Aid to the Aged, Blind, and Disabled Program as of December 13, 1973, and who were disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 establishes the mandatory supplementation program and the supplementation to other needy persons who are aged, blind, or have a disability. In addition, any state that makes supplementary payments on or after June 30, 1977, and does not have a pass-along agreement in effect with the Commissioner of the Social Security Administration, formerly a part of the U.S. Department of Health, Education, and Welfare, shall be determined by the commissioner to be ineligible for payments

under Title XIX of the Social Security Act in accordance with 20 C.F.R. 416.2099. This administrative regulation establishes the provisions of the supplementation program.

Section 1. Definitions. (1) "Activities of daily living" is defined by KRS 194A.700(1).

(2) "Adult" is defined by KRS 209.020(4).

(3)[~~(2)~~] "Aid to the Aged, Blind and Disabled Program" means the former state-funded program for an individual who was aged, blind, or had a disability.

(4)[~~(3)~~] "Care coordinator" means an individual designated by a community integration supplementation applicant or recipient to fulfill responsibilities specified in Section 6(2) of this administrative regulation.

(5)[~~(4)~~] "Department" means the Department for Community Based Services or its designee.

(6)[~~(5)~~] "Full-time living arrangement" means a residential living status that is seven (7) days a week, not part time.

(7) "Instrumental activities of daily living" is defined by KRS 194A.700(9).

(8)[~~(6)~~] "Private residence" means a dwelling that meets requirements of Section 4(2)(d) of this administrative regulation.

(9)[~~(7)~~] "Qualified alien" means an alien who, at the time the person applies for, receives, or attempts to receive state supplementation, meets the U.S. citizenship requirements of 907 KAR 20:001.

(10)[~~(8)~~] "Qualified mental health professional" is defined by KRS 202A.011(12).

(11)[~~(9)~~] "Serious mental illness" or "SMI" means a mental illness or disorder in accordance with Section 6(1) of this administrative regulation.

(12)[~~(10) "Specialized personal care home" means a licensed personal care home that receives funding from the Department for Behavioral Health, Developmental and Intellectual Disabilities to employ a mental health professional who has specialized training in the care of a resident with mental illness or intellectual disability.~~

~~(11)~~] "Supplemental security income" or "SSI" means a monthly cash payment made pursuant to 42 U.S.C. 1381 to 1383f to the aged, blind, or disabled.

Section 2. Mandatory State Supplementation. (1) A recipient for mandatory state supplementation shall include a former Aid to the Aged, Blind and Disabled Program recipient who became ineligible for SSI due to income but whose special needs entitled the recipient to an Aid to the Aged, Blind and Disabled Program payment as of December 1973.

(2) A mandatory state supplementation recipient shall be subject to the same payment requirements as specified in Section 4 of this administrative regulation.

(3) A mandatory state supplementation payment shall be equal to the difference between:

(a) The Aid to the Aged, Blind and Disabled Program payment for the month of December 1973; and

(b)1. The total of the SSI payment; or

2. The total of the SSI payment and other income for the current month.

(4) A mandatory payment shall discontinue if:

(a) The needs of the recipient as recognized in December 1973 have decreased; or

(b) Income has increased to the December 1973 level.

(5) The mandatory payment shall not be increased unless:

(a) Income as recognized in December 1973 decreases;

(b) The SSI payment is reduced, but the recipient's circumstances are unchanged; or

(c) The standard of need as specified in Section 9 of this administrative regulation for a class of recipients is increased.

(6) If a husband and wife are living together, an income change after September 1974 shall not result in an increased mandatory payment unless total income of the couple is less than December 1973 total income.

Section 3. Optional State Supplementation Program. (1) Except as established in Sections 7, 8, and 9 of this administrative regulation, optional state supplementation shall be available to a person who meets technical requirements and resource limitations of the medically needy program for a person who is aged, blind, or has a disability in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:005, Sections 5(2), (3), (4), (7), 10, and 12[~~11~~];

(c) 907 KAR 20:020, Section 2(4)(a);

(d) 907 KAR 20:025; or

(e) 907 KAR 20:040, Section 1.

(2) A person shall apply or reapply for the state supplementation program in accordance with 921 KAR 2:035 and shall be required to:

(a) Furnish a Social Security number; or

(b) Apply for a Social Security number, if a Social Security number has not been issued.

(3) If potential eligibility exists for SSI, an application for SSI shall be mandatory.

(4) The effective date for state supplementation program approval shall be in accordance with 921 KAR 2:050.

Section 4. Optional State Supplementation Payment. (1) An optional supplementation payment shall be issued in accordance with 921 KAR 2:050 for an eligible individual who:

(a) Requires a full-time living arrangement;

(b) Has insufficient income to meet the payment standards specified in Section 9 of this administrative regulation; and

(c)1. Resides in a personal care home and is eighteen (18) years of age or older in accordance with KRS 216.765(2);

2. Resides in a family care home and is at least eighteen (18) years of age in accordance with 902 KAR 20:041, Section 3(14);

3. Receives caretaker services and is at least eighteen (18) years of age; or

4.a. Resides in a private residence;

b. Is at least eighteen (18) years of age; and

c. Has SMI.

(2) A full-time living arrangement shall include:

(a) Residence in a personal care home that:

1. Meets the requirements and provides services established in 902 KAR 20:036; and

2. Is licensed under KRS 216B.010 to 216B.131;

(b) Residence in a family care home that:

1. Meets the requirements and provides services established in 902 KAR 20:041; and

2. Is licensed under KRS 216B.010 to 216B.131;

(c) A situation in which a caretaker is required to be hired to provide care other than room and board; or

(d) A private residence, which shall:

1. Be permanent housing with:

a. Tenancy rights; and

b. Preference given to single occupancy; and

2. Afford an individual with SMI choice in activities of daily living, social interaction, and access to the community.

(3) A guardian or other payee who receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

1. Discharge to a:

a. Nursing facility, unless the admission is for temporary medical care as specified in Section 10 of this administrative regulation; or

b. Residence other than a private residence pursuant to subsection (2)(d) of this section; or

2. Death of the state supplementation recipient; and

(b) Notify a local county department office within five (5) working days of the death or discharge of the state supplementation recipient.

(4) Failure to comply with subsection (3)(a) of this section may result in prosecution in accordance with KRS Chapter 514.

(5) If there is no guardian or other payee, a personal care or family care home that receives a state supplementation check for a state supplementation recipient shall:

(a) Return the check to the Kentucky State Treasurer, the month after the month of:

1. Discharge to a:

a. Nursing facility, unless the admission is for temporary medical care as specified in Section 10 of this administrative regulation;

b. Another personal care or family care home; or

c. Residence other than a private residence pursuant to subsection (2)(d) of this section; or

2. Death of the state supplementation recipient; and

(b) Notify a local county department within five (5) working days of the:

1. Death or discharge of the state supplementation recipient; or

2. Voluntary relinquishment of a license to the Office of Inspector General.

(6) If a personal care or family care home receives a state supplementation check after voluntary relinquishment of a license, as specified in subsection (5)(b)2 of this section, the personal care or family care home shall return the check to the Kentucky State Treasurer.

(7) Failure to comply with subsections (5)(a) or (6) of this section may result in prosecution in accordance with KRS Chapter 514.

Section 5. Eligibility for Caretaker Services. (1) Service by a caretaker shall be provided to enable an adult to:

(a) Remain safely and adequately:

1. At home;

2. In another family setting; or

3. In a room and board situation; and

(b) Prevent institutionalization.

(2) Service by a caretaker shall be provided at regular intervals by:

(a) A live-in attendant; or

(b) One (1) or more persons hired to come to the home.

(3) Eligibility for caretaker supplementation shall be verified annually by the cabinet with the caretaker to establish how:

(a) Often the service is provided;

(b) The service prevents institutionalization; and

(c) Payment is made for the service.

(4) A supplemental payment shall not be made to or on behalf of an otherwise eligible individual if the:

(a) Client is taken daily or periodically to the home of the caretaker; or

(b) Caretaker service is provided by the following persons living with the applicant:

1. The spouse;

2. Parent of an adult or minor child who has a disability; or

3. Adult child of a parent who is aged, blind, or has a disability.

Section 6. Eligibility for Community Integration Supplementation. (1) Eligibility for the community integration supplementation shall be based upon a diagnosis of SMI by a qualified mental health professional. SMI shall:

(a) Not include a primary diagnosis of Alzheimer's disease or dementia;

(b) Be described in the Diagnostic and Statistical Manual of Mental Disorders (DSM), fourth (4th) edition or edition currently in use;

(c) Impair or impede the individual's functioning in at least one (1) major area of living such as inability to care for or support self, communicate, or make and maintain interpersonal relationships; and

(d) Be unlikely to improve without treatment, services, or supports.

(2) Eligibility for the community integration supplementation shall be verified annually by the cabinet with the applicant, recipient, or care coordinator to establish how:

(a) Often services are provided;

(b) The services prevent institutionalization and support private residence in accordance with Section 4(2)(d) of this administrative regulation; and

(c) Payment is made for the services.

(3) Unless criteria in Section 10 of this administrative regulation are met by the applicant or recipient, SMI supplementation shall not be available to a resident of a home, facility, institution, lodging, or other establishment:

(a) Licensed or registered in accordance with KRS Chapter 216B; or

(b) Certified in accordance with KRS Chapter 194A.

Section 7. Resource Consideration. (1) Except as stated in subsection (2) of this section, countable resources shall be determined according to policies for the medically needy in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:020, Section 2(4)(a);

(c) 907 KAR 20:025; and

(d) 907 KAR 20:040, Section 1.

(2) An individual or couple shall not be eligible if countable resources exceed the limit of:

(a) $2,000 for an individual; or

(b) $3,000 for a couple.

Section 8. Income Considerations. (1) Except as noted in subsections (2) through (8) of this section, income and earned income deductions shall be considered according to the policy for the medically needy in accordance with:

(a) 907 KAR 20:001;

(b) 907 KAR 20:020, Section 2(4)(a);

(c) 907 KAR 20:025; and

(d) 907 KAR 20:040, Section 1.

(2) The optional supplementation payment shall be determined by:

(a) Adding:

1. Total countable income of the applicant or recipient, or applicant or recipient and spouse; and

2. A payment made to a third party on behalf of an applicant or recipient; and

(b) Subtracting the total of paragraph (a)1 and 2 of this subsection from the standard of need in Section 9 of this administrative regulation.

(3) Income of an ineligible spouse shall be:

(a) Adjusted by deducting sixty-five (65) dollars and one-half (1/2) of the remainder from the monthly earnings; and

(b) Conserved in the amount of one-half (1/2) of the SSI standard for an individual for:

1. The applicant or recipient; and

2. Each minor dependent child.

(4) Income of an eligible individual shall not be conserved for the needs of the ineligible spouse or minor dependent child.

(5) Income of a child shall be considered if conserving for the needs of the minor dependent child so the amount conserved does not exceed the allowable amount.

(6) The earnings of the eligible individual and ineligible spouse shall be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(7) If treating a husband and wife who reside in the same personal care or family care home as living apart prevents them from receiving state supplementation, the husband and wife may be considered to be living with each other.

(8) The SSI twenty (20) dollar general exclusion shall not be an allowable deduction from income.

Section 9. Standard of Need. (1) To the extent funds are available, the standard of need is as follows:

(a) For a resident of a personal care home on or after January 1, 2019, $1,291[~~2018, $1,270~~];

(b) For a resident of a family care home on or after January 1, 2019, $943[~~2018, $922~~];

(c) For individuals who receive caretaker services:

1. A single individual, or an eligible individual with an ineligible spouse who is not aged, blind, or has a disability on or after January 1, 2019, $833[~~2018, $812~~];

2. An eligible couple, both aged, blind, or having[~~have~~] a disability and one (1) requiring care on or after January 1, 2019, $1,218[~~2018, $1,186~~]; or

3. An eligible couple, both aged, blind, or having[~~have~~] a

disability and both requiring care on or after January 1, 2019, $1,272[~~2018, $1,240~~]; or

(d) For an individual who resides in a private residence and has SMI on or after January 1, 2019, $1,291[~~2018, $1,270~~].

(2)(a) In a couple case, if both are eligible, the couple's income shall be combined prior to comparison with the standard of need.

(b) One-half (1/2) of the deficit shall be payable to each.

(3) A personal care home shall accept as full payment for cost of care the amount of the standard, based on the living arrangement, minus a sixty (60) dollar personal needs allowance that shall be retained by the client.

(4) A family care home shall accept as full payment for cost of care the amount of the standard, based on the living arrangement, minus a forty (40) dollar personal needs allowance that shall be retained by the client.

Section 10. Temporary Stay in a Medical Facility. (1) An SSI recipient who receives optional or mandatory state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3) full months of medical care in a health care facility if the:

(a) SSI recipient meets eligibility for medical confinement established by 20 C.F.R. 416.212;

(b) Social Security Administration notifies the department that the admission shall be temporary; and

(c) Purpose shall be to maintain the recipient's home or other living arrangement during a temporary admission to a health care facility.

(2) A non-SSI recipient who receives mandatory or optional state supplementation shall have continuation of state supplementation benefits without interruption for the first three (3) full months of medical care in a health care facility if:

(a) The non-SSI recipient meets the requirements of subsection (1)(c) of this section;

(b) A physician certifies, in writing, that the non-SSI recipient is not likely to be confined for longer than ninety (90) full consecutive days; and

(c) A guardian or other payee, personal care home, or family care home, receiving a state supplementation check for the state supplementation recipient, provides a local county department office with:

1. Notification of the temporary admission; and

2. The physician statement specified in paragraph (b) of this subsection.

(3) A temporary admission shall be limited to the following health care facilities:

(a) Hospital;

(b) Psychiatric hospital; or

(c) Nursing facility.

(4) If a state supplementation recipient is discharged in the month following the last month of continued benefits, the temporary absence shall continue through the date of discharge.

Section 11. Citizenship requirements. An applicant or recipient shall be a:

(1) Citizen of the United States; or

(2) Qualified alien.

Section 12. Requirement for Residency. An applicant or recipient shall reside in Kentucky.

Section 13. Mental Illness or Intellectual Disability (MI/ID) Supplement Program. (1) A personal care home:

(a) May qualify, to the extent funds are available, for a quarterly supplement payment of fifty (50) cents per diem for a state supplementation recipient in the personal care home's care as of the first calendar day of a qualifying month;

(b) Shall not be eligible for a payment for a Type A Citation that is not abated; and

(c) Shall meet the following certification criteria for eligibility to participate in the MI/ID Supplement Program:

1. Be licensed in accordance with KRS 216B.010 to 216B.131;

2. Care for a population that is thirty-five (35) percent mental illness or intellectual disability clients in all of its occupied licensed personal care home beds and who have a:

a. Primary or secondary diagnosis of intellectual disability including mild or moderate, or other ranges of intellectual disability whose needs can be met in a personal care home;

b. Primary or secondary diagnosis of mental illness excluding organic brain syndrome, senility, chronic brain syndrome, Alzheimer's, and similar diagnoses; or

c. Medical history that includes a previous hospitalization in a psychiatric facility, regardless of present diagnosis;

3. Have a licensed nurse or an individual who has received and successfully completed certified medication technician or Kentucky medication aide training on duty for at least four (4) hours during the first or second shift each day;

4. Not decrease staffing hours of the licensed nurse or individual who has successfully completed certified medication technician training in effect prior to July 1990, as a result of this minimum requirement;

5. Be verified by the Office of Inspector General in accordance with Section 15(2) through (4) of this administrative regulation; and

6. File an STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits, with the department by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter.

a. Quarters shall begin in January, April, July, and October.

b. Unless mental illness or intellectual disability supplement eligibility is discontinued, a new application for the purpose of program certification shall not be required.

(2) A personal care home shall provide the department with its tax identification number and address as part of the application process.

(3) The department shall provide an STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home, to a personal care home following:

(a) Receipt of verification from the Office of Inspector General as specified in Section 15(6) of this administrative regulation; and

(b) Approval or denial of an application.

(4) A personal care home shall:

(a) Provide the department with an STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form, that:

1. Lists every resident of the personal care home who was a resident on the first day of the month;

2. Lists the last four (4) digits only of the resident's Social Security Number;[~~and~~]

3. Lists the resident's date of birth; and

4. Is marked appropriately for each resident to indicate the resident[~~Annotates the form, in order to maintain confidentiality, as follows with a~~]:

a.[~~Star indicating a resident~~] Has a mental illness[~~or intellectual disability~~] diagnosis;

b. Has an intellectual disability diagnosis[~~Check mark indicating a resident receives state supplementation~~]; or[~~and~~]

c. Receives state supplementation[~~Star and a check mark indicating the resident has a mental illness or intellectual disability diagnosis and is a recipient of state supplementation~~]; and

(b) Submit the STS-3 to the department on or postmarked by the fifth working day of the month by:

1. Mail;

2. Fax; or

3. Electronically.

(5) The monthly report shall be used by the department for:

(a) Verification as specified in subsection (4)(a) of this section;

(b) Payment; and

(c) Audit purposes.

(6)(a) A personal care home shall notify the department within ten (10) working days if its mental illness or intellectual disability percentage goes below thirty-five (35) percent for all personal care residents.

(b) A personal care home may be randomly audited by the department to verify percentages and payment accuracy.

Section 14. Mental Illness or Intellectual Disability (MI/ID) Training. (1)(a)**[~~To the extent cabinet funds are available to support the training~~]** A personal care home's licensed nurse or individual who has successfully completed certified medication technician or Kentucky medication aide training shall complete[~~attend~~] the personal care home mental illness or intellectual disability training workshop provided through the Department for Behavioral Health, Developmental and Intellectual Disabilities, once every two (2) years.

(b) Other staff may complete[~~attend~~] the training workshop in order to assure the personal care home always has at least one (1) certified staff employed for certification purposes.

(2) The personal care home mental illness or intellectual disability training shall be provided through a one (1) day workshop. The following topics shall be covered:

(a) Importance of proper medication administration;

(b) Side effects and adverse medication reactions with special attention to psychotropics;

(c) Signs and symptoms of an acute onset of a psychiatric episode;

(d) SMI;

(e) SMI recovery;

(f) Characteristics of each major diagnosis, for example, paranoia, schizophrenia, bipolar disorder, or intellectual disability;

(g)[~~(e)~~] Guidance in the area of supervision versus patient rights for the population with a diagnosis of mental illness or intellectual disability; [~~and~~]

(h)[~~(f)~~] Instruction in providing a necessary activity to meet the needs of a resident who has a diagnosis of mental illness or intellectual disability;

(i) Activities of daily living and instrumental activities of daily living;**[~~and~~]**

(j) Adult learning principles**; and**

(k) Information about 908 KAR 2:065 and the process for community transition for individuals with SMI.

(3) Initial training shall:

(a) Include the licensed nurse or the individual who has successfully completed certified medication technician or Kentucky medication aide training and may include the owner or operator; and

(b) Be in the quarter during which the STS-1 is filed with the department.

(4)(a) A personal care home shall have at least one (1) direct care[~~To assure that a~~] staff member who has received training [~~is always employed at the personal care home, a maximum of five (5) may be trained during a year~~].[~~(a) If staff turnover results in the loss of the licensed nurse or individual who has successfully completed certified medication technician or Kentucky medication aide training and four (4) other staff have been trained, the personal care home shall request in writing to the department an exemption of the five (5) staff maximum, in order to train another staff member.~~]

(b) A personal care home shall have on staff a licensed nurse or individual who:

1. Has successfully completed certified medication technician training; and

2.a. Has received mental illness or intellectual disability training; or

b. Is enrolled in the next scheduled mental illness or intellectual disability training workshop[~~at the closest location~~].

(5) The Department for Behavioral Health, Developmental and Intellectual Disabilities shall provide within five (5) working days a:

(a) Certificate to direct care staff who complete the training workshop; and

(b) Listing to the department of staff who completed the training workshop.

(6)[~~Unless staff turnover occurs as specified in subsection (4)(a) of this section,~~] The department shall pay twenty-five (25) dollars, to the extent funds are available, to a personal care home:

(a) That has applied for the MI/ID Supplement Program; and

(b) For each staff member receiving training up to a[~~the~~] maximum of five (5) staff per year.[~~(7) Attendance of the training workshop shall be optional for a specialized personal care home.~~]

Section 15. MI/ID Supplement Program Certification. (1) The Office of the Inspector General shall visit a personal care home to certify eligibility to participate in the MI/ID Supplement Program.

(a) The personal care home's initial MI/ID Supplement Program Certification Survey:

1. May be separate from an inspection conducted in accordance with KRS 216.530; and

2. Shall be in effect until the next licensure survey.

(b) After a personal care home's initial MI/ID Supplement Program Certification Survey is completed, the personal care home may complete any subsequent certification survey during the licensure survey as specified in paragraph (a)2 of this subsection.

(c) The department shall notify the Office of Inspector General that the personal care home is ready for an inspection for eligibility.

(2) During the eligibility inspection, the Office of Inspector General shall:

(a) Observe and interview residents and staff; and

(b) Review records to assure the following criteria are met:

1.[~~Except for a specialized personal care home,~~] Certification is on file at the personal care home to verify staff's completion[~~attendance~~] of training, as specified in Section 14(1) through (4) of this administrative regulation;

2. The personal care home:

a. Has certified staff training all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or intellectual disability training workshop; and

b. Maintains documentation of completion[~~attendance~~] at the in-service training for all direct care staff;

3. Medication administration meets licensure requirements and a licensed nurse or individual who has successfully completed certified medication technician training:

a. Demonstrates a knowledge of psychotropic drug side effects; and

b. Is on duty as specified in Section 13(1)(c)3 of this administrative regulation; and

4. An activity is being regularly provided that meets the needs of a resident.

a. If a resident does not attend a group activity, an activity shall be designed to meet the needs of the individual resident, for example, reading or other activity that may be provided on an individual basis.

b. An individualized care plan shall not be required for the criteria in clause a. of this subparagraph.

(3) The Office of Inspector General shall review the personal care home copy of the training certification prior to performing a record review during the MI/ID Supplement Program Certification Survey process.

(4) If thirty-five (35) percent of the population is mental illness or intellectual disability clients, as specified in Section 13(1)(c)2 of this administrative regulation, on the day of the visit, a personal care home shall be deemed to have an ongoing qualifying percentage effective with month of request for certification as specified in subsection (1)(c) of this section.

(5) If the mental illness or intellectual disability population goes below thirty-five (35) percent of all occupied personal care beds in the facility, the personal care home shall notify the department as specified in Section 13(6)(a) of this administrative regulation.

(6) The Office of Inspector General shall provide the department with a completed STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey, within fifteen (15) working days of an:

(a) Initial survey; or

(b) Inspection in accordance with KRS 216.530.

(7) The Office of Inspector General shall provide a copy of a Type A Citation issued to a personal care home to the department by the fifth working day of each month for the prior month.

(8) The personal care home shall receive a reduced payment for the number of days the Type A Citation occurred on the first administratively feasible quarter following notification by the Office of Inspector General, in accordance with 921 KAR 2:050.

(9) If a criterion for certification is not met, the department shall issue an STS-2 to a personal care home following receipt of the survey by the Office of Inspector General as specified in

subsection (6) of this section.

(10) The personal care home shall provide the department with the information requested on the STS-2:

(a) Relevant to unmet certification criteria specified on the STS-4; and

(b) Within ten (10) working days after the STS-2 is issued.

(11) If a personal care home fails to provide the department with the requested information specified in subsection (10) of this section, assistance shall be discontinued or decreased, pursuant to 921 KAR 2:046.

(12) If a personal care home is discontinued from the MI/ID Supplement Program, the personal care home may reapply for certification, by filing an STS-1 in accordance with Section 13(1)(c)6 of this administrative regulation, for the next following quarter.

Section 16. Hearings and Appeals. An applicant or recipient of benefits under a program described in this administrative regulation who is dissatisfied with an action or inaction on the part of the cabinet shall have the right to a hearing under 921 KAR 2:055.

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

(a) "STS-1, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Application for Benefits", 01/15;

(b) "STS-2, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Notice of Decision to Personal Care Home", 01/15;

(c) "STS-3, Mental Illness or Intellectual Disability (MI/ID) Supplement Program Monthly Report Form", 01/19[~~01/13/14~~]; and

(d) "STS-4, Mental Illness or Intellectual Disability (MI/ID) Supplement Certification Survey", 01/19[~~01/17~~].

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

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 12, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, phone (502) 564-3798, email Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a program for supplemental payments to persons who are aged, blind, or have a disability in accordance with KRS 205.245 and the Mental Illness or Intellectual Disability (MI/ID) Supplement Program.

(b) The necessity of this administrative regulation: The administrative regulation is needed to establish conditions and requirements regarding the State Supplementation Program and the MI/ID Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes through its establishment of a supplemental program of persons who are aged, blind, or have a disability and its compliance with the agreement with the Social Security Administration, formerly a part of the U. S. Department of Health, Education, and Welfare, to maintain the state's eligibility for federal Medicaid funding.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the eligibility requirements and standards of need for the State Supplemental Program for persons who are aged, blind, or have a disability.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation will increase the standard of need in the State Supplemental Program to reflect the cost of living adjustment (COLA) to be implemented in calendar year 2019 by the Social Security Administration for Supplemental Security Income (SSI) recipients. The Social Security Administration deemed the COLA to be an increase of 2.8%. In addition, the training requirement is being amended to add serious mental illness, activities of daily living, and adult learning principles to the topics included in the training and to require attendance once every two years rather than every year. The term "specialized personal care home" and references to it are being deleted because they are no longer necessary. The STS-3 and STS-4 forms are being amended for consistency with the regulatory amendment.

The administrative regulation was further amended in response to comment received to remove "To the extent cabinet funds are available to support the training" regarding the MI/ID Training as this training is required by the Second Amended Settlement Agreement (SASA) between the Cabinet and Kentucky Protection & Advocacy and Cabinet funds must be made available for this. In response to comment, "908 KAR 2:065 and the process for community transition for individuals with SMI" was also included among the MI/ID training topics required.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation will increase the standard of need in the State Supplemental Program to reflect the COLA to be implemented in calendar year 2019 by the Social Security Administration for SSI recipients. The administrative regulation was further amended in response to comments received and in order to comply with the SASA between the Cabinet and Kentucky Protection & Advocacy.

(c) How the amendment conforms to the content of the authorizing statutes: 42 U.S.C. 1382 authorizes the cabinet to administer a state funded program of supplementation to all former recipients of the Aid to the Aged, Blind, and Disabled Program as of December 13, 1973, and who were disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 establishes the mandatory supplementation program and the supplementation to other needy persons who are aged, blind, or have a disability. This administrative regulation establishes the provisions of the supplementation program. The amendment to this administrative regulation will increase the standard of need in the State Supplemental Program to reflect the COLA to be implemented in calendar year 2019 by the Social Security Administration for SSI recipients.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by passing along the 2019 2.8% COLA for the Supplemental Security Income benefit by modifying the standard of need for all levels of care for the State Supplementation Program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: In SFY 18, there were 3,085 individuals who received State Supplementation Program benefits. As of fall 2018, there are 23 personal care homes participating in the MI/ID Supplement Program.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: There is no new action required of regulated entities.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There is no new action required of regulated entities.

(b) In complying with this administrative regulation or

amendment, how much will it cost each of the entities identified in question (3): There is no new or additional cost to the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A 2.8% increase in the COLA for SSI recipients.

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

(a) Initially: There will be negligible fiscal impact to the Cabinet for Health and Family Services to implement the mandated COLA pass-through money.

(b) On a continuing basis: There will be negligible fiscal impact to the Cabinet for Health and Family Services to implement the mandated pass-through of the 2019 SSI COLA. Not complying with the federal pass-through mandate would jeopardize the state's federal Medicaid funding.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General funds and agency funds are used to implement and enforce the State Supplementation 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 is necessary to implement this administrative regulation.

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1382 e-g, 20 C.F.R. Part 416

2. State compliance standards. KRS 194A.050(1), 205.245

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1382 e-g, 20 C.F.R. Part 416

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 205.245, 42 U.S.C.1328e-g, 20 C.F.R. Part 416

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

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

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

(c) How much will it cost to administer this program for the first year? No additional costs are projected to administer this program for the first year

(d) How much will it cost to administer this program for subsequent years? No additional costs are projected 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:

PROPOSED AMENDMENTS

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 5:145. CAP grant award determination procedure.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535, 164.7889(3)

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4), 164.7889(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7889(3) requires the authority to promulgate an administrative regulation that increases both the maximum amount available under the grant programs, and increases the average income level for qualification for the grant programs if sufficient funds are available. This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

Section 1. Each application submitted pursuant to 11 KAR 4:080 and 11 KAR 5:130 shall be reviewed for determination that all eligibility requirements established in 11 KAR 5:034 are met. To qualify for a CAP award based on financial need, the applicant's expected family contribution shall be $5,576[~~$5,486~~] or less.

Section 2. CAP Grant Award. (1) Except as provided in subsection (2) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment on a full-time basis as determined by the educational institution in an eligible program shall be the lesser of:

(a) $1,000[~~$950~~]; or

(b) The amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

(2) The maximum CAP grant in any semester for an applicant accepted for enrollment on less than a full-time basis as determined by the educational institution in an eligible program shall be:

(a) The amount specified in subsection (1)(a) of this section:

1. Divided by twelve (12); and

2. Multiplied by the number of credit hours in which the applicant is accepted for enrollment; and

(b) Not in excess of the maximum specified in subsection (1)(b) of this section.

(3) For any academic year, a student shall not receive more than $2,000[~~$1,900~~] for an aggregate CAP grant award.

Section 3. (1) A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books.

(2) A KHEAA grant award shall not be made for a summer academic term.

Section 4. (1) A KHEAA grant award shall not exceed the applicant's cost of education less expected family contribution and other anticipated student financial assistance.

(2) The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the determination of financial need for that student.

(3) The KHEAA Grant Program Officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

(4) If the applicant's expected family contribution, disbursed KHEAA grant amount, plus other student financial assistance exceeds his or her need, the excess shall be considered to be an overaward. If an overaward occurs, this amount shall be returned to the authority immediately.

Section 5. (1) If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked.

(2) If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 6. If the educational institution receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant, and:

(1) If the grant has not yet been disbursed for the fall academic term, the reduction shall be made to both the fall and spring disbursements and the educational institution shall notify the student of the reduction;

(2) If the grant for the fall academic term has already been disbursed and the student enrolls for the spring academic term, the reduction shall be made to the spring disbursement and the educational institution shall notify the student of the reduction;

(3) If the grant for the fall academic term has already been disbursed and the student does not enroll for the spring academic term, the educational institution shall notify the student of the fall overaward and the student shall repay the overaward to the authority; or

(4) If both the fall and spring disbursements have been made, the educational institution shall notify the student of the overaward and the student shall repay the overaward to the authority.

Section 7. (1) Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant.

(2) Any student who is awarded a KHEAA grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

STEPHEN L. ZEITZ, Chair

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 12, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, May 28, 2019, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Ms. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798; phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Rebecca Gilpatrick, email rgilpatr@kheaa.com; and Diana L. Barber

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the award determination

procedures for the CAP Grant Program.

(b) The necessity of this administrative regulation: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that students applying for a CAP grant meet the required financial need criteria and those students receive the maximum CAP grant allowed for any academic period.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation increases the maximum expected family contribution level necessary to demonstrate financial need for eligibility for the CAP grant program. In addition, this amendment will increase the CAP grant award amount.

(b) The necessity of the amendment to this administrative regulation: The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit for participation in the CAP grant program. It also conforms to the content of the authorizing statutes by increasing the maximum amount of the CAP grant award.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit under the CAP grant program as well as the maximum grant award amount.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by increasing the maximum expected family contribution level for eligibility for participation in the CAP grant program as well as increasing the maximum grant award amount.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Students at a total of fifty-five (55) Kentucky postsecondary institutions currently participate in the CAP grant program. In the academic year ending June 30, 2018, there were 248,912 applicants for CAP grant awards. A total of 47,651 students received KHEAA grant awards during that period.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Those individuals who seek to participate in the CAP grant program will benefit by the increase in the expected family contribution (EFC) limit. Specifically, students with a higher EFC will be eligible to participate in the program up to the maximum limit established in the amendment. Further, all those who receive a CAP grant will benefit by the increase in maximum award amount.

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

(a) Initially: The amendment to this administrative regulation increases the maximum expected family contribution level necessary to demonstrate financial need, making grants potentially available to more students. Further, the amount of the grant will increase. However, the funds available for grants, and, in general, the overall cost of administering the program will neither increase nor decrease.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Grants for students under the College Access Program are funded from net lottery revenues transferred to the authority for grant and scholarship programs, while administrative costs are borne by the authority through agency receipts.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.748(4), 164.753(4), 164.7889(3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

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

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

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board
(Amendment)

16 KAR 8:030. Continuing education option for[~~certificate renewal and~~] rank change.

RELATES TO: KRS 161.020, 161.028, 161.030, 161.1211

STATUTORY AUTHORITY: KRS 161.020, 161.028(1)(a), (f), (q), 161.030, 161.095, 161.1211

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.095 requires the Education Professional Standards Board to promulgate an administrative regulation establishing procedures for a teacher to maintain a certificate by successfully completing meaningful continuing education. KRS 161.028(1)(f) and 161.030 authorize the board to issue and renew certification for professional school personnel, and KRS 161.028(1)(q) authorizes the board to

charge reasonable certification fees. KRS 161.1211 establishes certificate ranks and requires the board to issue rank classifications. This administrative regulation establishes the procedures for the continuing education option for[~~certificate renewal and~~] rank change.

Section 1.[~~Procedures for the first and second renewal of the professional teaching certificate established in 16 KAR 2:010 shall require completion of:~~

~~(1) The continuing education option established in this administrative regulation; or~~

~~(2) A planned fifth-year program established in 16 KAR 8:020.~~

~~Section 2.~~] The Continuing Education Option shall only be used to obtain either Rank II or Rank I.

Section 2. The Continuing Education Option shall require the completion of Plan I or Plan II of this administrative regulation.

Section 3. Plan I.[~~Program Requirements.~~] (1) Plan I shall have the following program requirements:[~~The continuing education option shall consist of four (4) phases:~~]

(a) Plan I shall consist of four (4) phases:

1. Phase one (1): Completion of an instructional seminar established in subsection 2(b) of this section,[~~Section 4 of this administrative regulation~~] and development of a plan for job-embedded professional development;

2.[~~(b)~~] Phase two (2): Content exploration and research;

3.[~~(c)~~] Phase three (3): Student instruction and assessment; and

4.[~~(d)~~] Phase four (4): Professional demonstration and publication.

(b)[~~(2)~~] In addition to the completion of the four (4) phases established in paragraph (a) of this subsection[~~subsection (1)(a) through (d) of this section~~], a candidate for Plan 1[~~the Continuing Education Option~~] shall[~~:~~

~~a.~~] develop a leadership project aligned to the job-embedded professional development.[~~required by subsection (1)(a) of this section; and~~

~~(a) Develop a leadership project aligned to the job-embedded professional development required by subsection (1)(a) of this section.~~

~~(b) Complete a minimum of six (6) graduate credit hours, with an average grade point average of three and zero-tenths (3.0) aligned to the job-embedded professional development required by subsection (1)(a) of this section.~~]

(2)[~~Section 4. (1)~~] A candidate for Plan I[~~the continuing education option~~] for[~~certificate renewal and~~] rank change shall:

(a) Attend a board-approved program orientation meeting; and

(b) Successfully complete a board-approved seminar on how to build a plan for job-embedded professional development.

(3)[~~(2)~~](a)1. A Kentucky school district, group of Kentucky school districts, or Kentucky postsecondary institution with an accredited educator preparation program may make application to the Education Professional Standards Board for approval to sponsor a seminar on how to build a plan for job-embedded professional development.

2. The Education Professional Standards Board may sponsor a seminar on how to build a plan for job-embedded professional development in a district or group of districts in which a seminar is not otherwise offered.

(b) The seminar on how to build a plan for job-embedded professional development shall be led by a continuing education option coach.

(c) The seminar on how to build a plan for job-embedded professional development may be a blend of:

1. Web-based instruction; and

2. Face-to-face cohort meetings.

(d) The Education Professional Standards Board may provide Web-based instruction through an on-line module[~~at www.KYEducators.org~~].

(e) A seminar sponsor shall offer face-to-face cohort meetings at least two (2) times per month during the plan building seminar.

(4)[~~(3)~~] Following completion of phase one (1) of Plan I[~~the continuing education option~~], a seminar sponsor shall continue face-to-face cohort meetings on a monthly basis.[~~(4) Completion of the first phase of the Continuing Education Option shall allow the candidate to receive first renewal of the candidate's certificate beginning July 30, 2010.~~]

(5) Payment of seminar tuition.

(a)1. Tuition for the on-line module provided by the Education Professional Standards Board shall be $150.

2. The on-line module fee shall be paid to the Education Professional Standards Board at the time of enrollment.

(b)1. Tuition for the cohort meetings shall be $1,100.

2. The cohort meeting fee shall be paid to the board-approved seminar sponsor.

(c)1. Seminar tuition shall be nonrefundable.

2. A cohort meeting fee may be transferred to another seminar sponsor upon agreement between both sponsors.

(6)(a) Upon completion of the seminar, the[~~Continuing Education Option~~] candidate shall design an individual job-embedded professional development plan.

(b) The job-embedded professional development plan shall:

1. Focus on a professional growth need identified by the teacher with consideration given to the needs identified in the school's consolidated plan, student assessment results, and community resources;

2. Include goals correlated to:

a. Each of the teacher standards[~~ten (10) Kentucky Teacher Standards~~] established in 16 KAR 1:010;

b. The performance indicators[~~Kentucky Teacher Standards Advanced Level Performance~~] in the CEO Plan I Professional Development Portfolio Rubric; and

c. The teacher's individual professional growth needs established in subparagraph 1. of this paragraph;

3. Include a timeline in which the candidate shall complete all phases of Plan 1[~~the continuing education option~~]. The timeline shall not:

a. Be less than one (1) year[~~eighteen (18) months~~]; or

b. Be more than four (4) years; and

4. Be reviewed by the continuing education option coach for the seminar cohort.

(c) The continuing education option coach shall:

1. Review the plans using the CEO Plan I Professional Development Plan Scoring Rubric; and

2. Provide guidance to the candidate for submitting the plan to the Education Professional Standards Board for scoring.

(d)1. The candidate shall submit the plan to the Education Professional Standards Board for review.

2. The candidate may resubmit the plan for an additional scoring if the continuing education scoring team has provided evidence of a deficiency in the plan.

3. The candidate shall submit a scoring fee of $455 to the Education Professional Standards Board with the plan.

4. If a candidate submits a plan for additional scoring, the candidate shall submit a rescoring fee of fifty (50) dollars to the Education Professional Standards Board with the plan.

(7)(a) The candidate shall participate in a job-embedded professional development experience with documented outcomes that demonstrate the accomplishment of the established goals.

(b) A job-embedded professional development experience may include university graduate credit or undergraduate content course credits that meet the goals established in the candidate's job-embedded professional growth plan.

(c) A job-embedded professional development experience shall include a combination of:[~~1.a. A minimum of six (6) university graduate credits; or~~

~~b. With approval from Education Professional Standards Board staff, a minimum of six (6) university graduate or undergraduate content course credits that meet the goals established in the candidate's job-embedded professional growth plan;~~]

1.[~~2.~~] Research;

2.[~~3.~~] Field-experience;

3.[~~4.~~] Professional development activities;

4.[~~5.~~] Interdisciplinary networking and consultations; and

5.[~~6.~~] A leadership project.

(8)(a) The evidence of accomplishment of the goals identified in the plan shall be documented by the candidate in a portfolio.

(b) The candidate shall present the portfolio to the Education Professional Standards Board for review and scoring.

(c) The documentation in the portfolio shall provide evidence:

1. That all performance indicators[~~Kentucky teacher standards Advanced Level Performance Indicators~~], as listed in the CEO Plan I Professional Development Portfolio Rubric, have been met;

2. Of the effects on student learning; and

3. Of the professional growth over time in:

a. Content knowledge;

b. Instructional and student assessment practices; and

c. Professional demonstration and publication skills.

(d) The portfolio shall be presented using a variety of media, which may include electronic recordings.[~~(e) The portfolio shall be submitted to the Education Professional Standards Board at least one (1) year in advance of the expiration date of the teacher's certificate.~~]

(e)[~~(f)~~] The portfolio shall be submitted in either:

1. A traditional paper format with other media; or

2. An electronic format.

(f)[~~(g)~~] A portfolio shall not exceed three (3) four (4) inch binders in size or its electronic equivalent.

(9)[~~Section 5. (1)~~] Initial application for Plan I[~~the continuing education option program~~] shall be made through a seminar sponsor approved by the Education Professional Standards Board.

(10)[~~(2)~~]The approved seminar sponsor shall report all enrolled applicants to the Education Professional Standards Board.

(11)[~~Section 6(1)~~]A team of two (2) scorers approved by the Education Professional Standards Board shall review and score the continuing education portfolio.

(12)[~~(2)~~] The scorers shall be selected by the Education Professional Standards Board from a cadre of educators representing teachers, principals, central office instructional personnel, and higher education faculty.

(13)[~~(3)~~] The two (2) person scoring team shall:[~~(a) Include a teacher certified in the same grade range and content area as the continuing education option candidate;~~]

(a)[~~(b)~~] Score the candidate's portfolio using the CEO Plan I Professional Development Portfolio Rubric;

(b)[~~(c)~~]1. Recommend the teacher for rank change[~~certificate renewal~~] to the Education Professional Standards Board[~~prior to the expiration date of the certificate~~]; or

2. Report results to the Education Professional Standards Board using the scoring rubric to indicate which standards were not met; and

(c)[~~(d)~~] Receive training from the Education Professional Standards Board to score the portfolios in a consistent and reliable manner.

(14)(a)[~~(4)(a)~~] If the two (2) person scoring team cannot reach consensus in the review process, a third scorer shall score the portfolio.

(b) An average of the scores shall determine whether the portfolio contained evidence that the teaching standards[~~ten (10) Kentucky Teacher Standards for Preparation and Certification~~] established in 16 KAR 1:010 were met.

(15)(a)[~~(5)(a)~~] If the teacher's portfolio does not contain evidence that teaching standards[~~all ten (10) Kentucky Teacher Standards established~~] in 16 KAR 1:010 have been met, the teacher may resubmit a partial portfolio for rescoring, which shall contain documented evidence on the unmet standard or standards.

(b) The rescoring process shall follow the same procedures as the initial scoring process established in this section.

(c) The teacher shall receive feedback from the initial scoring regarding additional evidence that may be needed to show that goals were accomplished and that all teaching standards[~~Kentucky Teacher Standards established~~] in 16 KAR 1:010 were met.[~~Section 7. A teacher following the continuing education option to the fifth-year program for certificate renewal and rank change shall complete the program by the end of the second certificate renewal period.~~]

(16)[~~Section 8. Payment of Fee for Scoring the Portfolio. (1)~~] A scoring fee of $1,400 shall be assessed to each Plan I[~~continuing education option~~] candidate.

(17)[~~(2)~~] The fee shall be used to pay expenses for the actual cost of administration of the Plan I[~~continuing education option~~] program including the costs associated with the following:

(a) The evaluation of approved seminar provider programs;

(b) Training the continuing education option coaches who lead the seminars;

(c) Training and compensating the portfolio reading team members; and

(d) The initial scoring of the portfolio.

(18)[~~(3)~~] Payment shall be made to the Education Professional Standards Board.

(19)[~~(4)~~] The full fee shall be submitted with the portfolio for scoring.

(20)[~~(5)~~] The initial scoring fee shall provide for one (1) scoring of all parts of the portfolio.

(21)(a)[~~(6)(a)~~] A fee of $140 shall be assessed for each unmet standard that requires rescoring.

(b) The rescoring fee, if applicable, shall be submitted to the Education Professional Standards Board with the revised portfolio.

(22)[~~Section 9. (1)~~] Portfolios shall be scored by the Education Professional Standards Board on an annual basis.

(23)[~~(2)~~] A candidate shall have been enrolled in the continuing education option program for at least twelve (12)[~~eighteen (18)~~] months prior to submission of the portfolio to the Education Professional Standards Board for scoring.

(24)[~~(3)~~] A candidate shall submit a portfolio to the Education Professional Standards Board for initial scoring between July 1 and July 15.

(25)[~~(4)~~] The date of portfolio submission shall be either:

(a) The day the portfolio is hand-delivered to the Education Professional Standards Board offices; or

(b) The date of the postmark.

(26)(a)[~~(5)(a)~~] A portfolio that requires rescoring shall be resubmitted during one (1) of the rescoring windows of October 1 through 15 or January 1 through 15.

(b) Portfolios not submitted within the rescoring window shall be resubmitted in accordance with the schedule established in subsection (24)[~~(3)~~] of this section.

(27)[~~(6)~~] All portfolios shall become the property of the Education Professional Standards Board.

(28)(a)[~~(7)(a)~~] The Education Professional Standards Board shall provide electronic tracking of all portfolios to identify cases of plagiarism.

(b) Instances of plagiarism shall be reported to the Education Professional Standards Board for disciplinary action.

Section 2. Plan II. (1) Plan II shall require the completion of a continuing education program approved by the Education Professional Standards Board. (2) Plan II programs shall require the candidate to participate in a job-embedded professional development experience with documented outcomes included in a capstone project.

(a) A job-embedded professional development experience shall:

1. Focus on a professional growth need identified by the provider with consideration given to the needs identified in the school or district's consolidated plan, student assessment results, and community resources;

2. Include goals correlated to each of:

a. The teaching standards established in 16 KAR 1:010; or

b. The standards for teacher leader established in 16 KAR 1:016; and

3. Require the candidate to demonstrate that all standards identified in subparagraph 2 of this subsection have been meet.

(b) A job-embedded professional development experience may include university graduate credit or undergraduate content course credits that meet the goals established in paragraph (a) of this subsection.

(c) A job-embedded professional development experience shall include a combination of:

1. Research;

2. Field-experience; and
3. Professional development activities.
(d) A job-embedded professional development experience shall cover the areas of:
1. Content exploration and research;
2. Student instruction and assessment; and
3. Professional development and publication.
(3) The Plan II program shall include mentoring of the candidate and oversight by the provider.
(4) The capstone project shall provide evidence:
(a) That standards identified in subsection (2)(a)2. of this section have been met;
(b) Of positive effects on student learning; and
(c) Of professional growth over time in:
1. Content knowledge;
2. Instruction and assessment practices; and
3. Professional demonstration and publication skills.
(5) The program provider shall document how the capstone project will be embedded in the program, how it will be scored, and what steps will be taken to protect against plagiarism.
(6) Providers shall report instances of plagiarism to the Education Professional Standards Board for disciplinary action.
(7) The timeline for completion of the Plan II program shall not:
1. Be less than one (1) year; or
2. Be more than four (4) years.
(8) Upon a candidate's successful completion of the Plan II program, the provider shall recommend the candidate to the Education Professional Standards Board for rank change.
(9) If a candidate is unsuccessful, the provider may work with the candidate to help the candidate successfully complete any deficient areas.
(10) A Kentucky school district, group of Kentucky school districts, or a Kentucky post-secondary institution with an accredited educator preparation program may submit a Plan II program to the Education Professional Standards Board for approval. A Plan II program must be approved by the Education Professional Standards Board prior to operation.
(11) Plan II program submissions shall document:
1. How the provider will meet the requirements of this section;
2. The criteria for successful completion of the submitted program;
3. How the provider will address unsuccessful candidates; and
4. How the capstone project will be embedded and scored.

Section 5.[~~10.~~] Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "CEO Plan I Professional Development Plan Scoring Rubric", 2019[~~2~~009]; and
(b) "CEO Plan I Professional Development Portfolio Rubric", 2019[~~2~~009];
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 300 Sower Boulevard, 5th[~~100 Airport Road, 3rd Floor~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SARAH BURNETT, Board Chair
APPROVED BY AGENCY: April 8, 2019
FILED WITH LRC: April 15, 2019 at noon
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on May 22, 2019, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:
CONTACT PERSON: Deanna L. Durrett, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601; phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Deanna L. Durrett
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for the continuing education option for rank change.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide notice to candidates of the program requirements for the continuing education option for rank change. It also provides districts and post-secondary institutions with the requirements for developing a Plan II continuing education option.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.095 requires the Education Professional Standards Board to promulgate an administrative regulation establishing procedures for a teacher to maintain a certificate by successfully completing meaningful continuing education. KRS 161.028(1)(f) and 161.030 authorize the board to issue and renew certification for professional school personnel, and KRS 161.028(1)(q) authorizes the board to charge reasonable certification fees. KRS 161.1211 establishes certificate ranks and requires the board to issue rank classifications.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the steps necessary to successfully complete the continuing education option for rank change. It also establishes the requirements for a district, group of districts or post-secondary institution to provide a Plan II continuing education option.
(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 labels the current continuing education option as Plan I. This option is updated to reflect to language of the Kentucky Teacher Standards adopted by the Education Professional Standards Board in 16 KAR 1:010, and makes the six hours of graduate credit permissive in accordance with recent revisions to KRS 161.095. This amendment also creates a Plan II continuing education option, and sets the requirements for districts or post-secondary institutions to develop these programs.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide notice of the program requirements for the continuing education options for rank change.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.028(1)(f), and 161.030 authorize the Education Professional Standards Board to issue and renew certification for professional school and KRS 161.028(1)(q) authorizes the board to charge reasonable certification fees. KRS 161.1211 establishes certificate ranks and requires the Education Professional Standards Board to issue rank classifications. KRS 161.095 requires the promulgation of administrative regulations to establish procedures for continuing education.
(d) How the amendment will assist in the effective administration of the statutes: These amendments assist in the effective administration the statutes, by providing clear standards for the continuing education options. By allowing districts and post-secondary institutions to offer a continuing education option for rank change, it will also increase the number of educators who are able to utilize this option for rank change.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 173 Kentucky school districts, 26 post-

secondary education with educator preparation programs, and educators seeking rank change.

(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: If districts or post-secondary institutions wish to offer a Plan II continuing education option, they will have to follow the requirements of the regulation and submit a program to the Education Professional Standards Board for approval. Educators will have the ability to complete the Plan I continuing education option or pursue a Plan II option that has been approved by the Education Professional Standards Board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): If districts or postsecondary institutions decide to develop a Plan II continuing education option, then there will be some cost associated with development and implementation. That cost will vary depending on the programs and the resources available to the district or institution. However, the Education Professional Standards Board has not set fees for the Plan II option. The fees that an applicant will have to pay to complete Plan I have not changed with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Educators will be positively affected by the addition of Plan II options. Districts and post-secondary institutions will be positively affected by the ability to offer continuing education options aligned to the needs in their area. The amendment also provides the benefit of increasing the number of educators who have engaged in focused professional development to enhance their teaching abilities.

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

(a) Initially: There will be some initial cost with the review of Plan II programs. However, because the Education Professional Standards Board already has staff and processes in place for the Plan I programs, this cost will be minimal.

(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: State General 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: At this time, no increase in fees or funding expected to be needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes fees for the components of the Plan I continuing education option, but the amendments do not change those previously established fees. No fees are established for the Plan II continuing education option.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Education Professional Standards Board,173 public school districts, and public post-secondary institutions.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.020, 161.028, 161.030, 161.095, and 161.1211.

(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 on expenditures or revenues created by this amendment.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There should be no additional revenues created by this 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? There should be no additional revenues created by this amendment.

(c) How much will it cost to administer this program for the first year? There are no costs associated with the administration of the Plan II program. The amendment does not make any changes to the administration of Plan I program.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with the administration of the Plan II program. The amendment does not make any changes to the administration of Plan I 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: The fees for the Plan I program are not changed by this amendment. Plan II is not a fee generating or a cost incurring program, but sets the requirements for districts or post-secondary institutions to offer the continuing education option for rank change.

BOARD OF DENTISTRY
(Amendment)

201 KAR 8:581. Charity dental practices.

RELATES TO: KRS 313.254(8)

STATUTORY AUTHORITY: KRS 313.021, 313.060(1), 313.254(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.021(1) requires the board to exercise all of the administrative functions of the Commonwealth in the regulation of the profession of dentistry, KRS 313.060(1) requires the board to promulgate administrative regulations relating to dental practices, and KRS 313.254(8) requires the board to promulgate administrative regulations relating to the charitable practice of dentistry. This administrative regulation establishes requirements for charitable dental practices.

Section 1. Minimum Documentation Standards for All Dental Patients of a Charitable Dental Practice. Each patient record for a dental patient of a charitable dental practice in the Commonwealth of Kentucky shall include at a minimum:

(1) The patient's name;

(2) The patient's date of birth;

(3) The patient's medical history;

(4) The patient's dental history;

(5) The patient's current medications from all healthcare providers;

(6) The date of current treatment;

(7) The diagnosis;

(8) The treatment options presented to the patient;

(9) The tooth number and surfaces to be treated, which shall be included in the progress notes;

(10) The patient's current pulse and blood pressure reading;

(11) Informed consent by the patient; and

(12) Signature or initials of the provider.

Section 2. Documentation of Infection Control Procedures. All charitable dental practices in the Commonwealth of Kentucky shall adhere to the universal precautions outlined in the Guidelines for Infection Control in Dental Health-Care Settings published by the Centers for Disease Control and Prevention and shall retain documentation proving that:

(1) All workers have been educated in the charitable dental practice or post-disaster clinic procedures for infection control;

(2) All workers involved in patient treatment of have received a Hepatitis B vaccination or have signed a waiver;

(3) A policy is in place requiring all staff involved in clinical patient care to wear a fresh set of gloves for each patient;

(4) A policy is in place to assure all staff change gloves between patients;

(5) A policy is in place to assure all staff wears protective clothing during patient care;

(6) A policy is in place to assure all staff wear masks during procedures that may involve spatter;

(7) The charitable dental practice contains the necessary supplies to comply with this administrative regulation;

(8) All hand-pieces are sterilized following each patient treatment by one (1) of the following means:

(a) Autoclave;

(b) Dry heat; or

(c) Heat or chemical vapor;

(9) There is routine verification that sterilization methods are functioning properly;

(10) Individual burs, hand instruments, and rotary instruments are either discarded or sterilized following each use;

(11) A policy is in place that addresses the disinfection of all operatory equipment and surfaces between patients;

(12) All surfaces that are difficult to disinfect shall be covered with a non-penetrable barrier;

(13) A policy is in place requiring that all non-penetrable surfaces are changed between patients;

(14) Disinfectant is used, including the name and type of the disinfectant;

(15) A policy is in place that describes a separate place for the cleaning, disinfecting, and sterilization of items, with a mechanism of separation from the patient treatment area that may be:

(a) An enclosed instrument table;

(b) Curtains or wall separation; or

(c) Bagging of the instruments;

(16) A policy is in place that provides for the protection of dental records, charts, and radiographs from biohazards while those items are in the patient treatment area, or if no protection exists, charts shall be readily reproducible with limited effort; and

(17) An agreement exists with an agency to properly dispose of all medical waste and biohazardous material, including sharps, instruments, and human tissue.

Section 3. Infection Control Inspections. (1) The board or its designee may perform an infection control inspection of a charitable dental practice utilizing the Infection Control Inspection Checklist.

(2) A charitable dental practice that is found deficient upon an initial infection control inspection shall not be allowed to continue until the clinic coordinator provides proof to the board that the charitable dental practice is in compliance.

Section 4. General Requirements for Charitable Dental Practices. All charitable dental practices in the Commonwealth shall comply with the following requirements:

(1) The clinic coordinator, who shall supervise and oversee all charitable dental practice functions, shall be a Kentucky licensed dentist;

(2) There shall be a functional radiograph machine on site;

(3) Follow-up care provisions shall be in place for each patient requiring follow-up care;

(4) A written blood-borne pathogen exposure control plan shall be kept on site;

(5) A sharps stick protocol shall be followed in which:

(a) The entity that will collect specimens shall be identified prior to the start of the event; and

(b) The laboratory that will perform blood work analysis shall be identified prior to the start of the event;

(6) Post-operative instructions shall be delivered to the patient prior to the patient leaving;

(7) A dentist shall not supervise more than six (6) students in a charitable dental practice or post-disaster clinic;

(8) All procedures shall be concluded by the end date of the charitable dental practice unless a Kentucky licensed dentist has stated in writing that the licensee shall complete the procedure in a timely manner at his practice;

(9) All charitable dental practices shall notify the board no less than thirty (30) days prior to the start of an event of the dates, locations, and host of the event;

(10) A charitable dental practice shall provide the names and license numbers of all participating dentists and dental hygienists no later than fifteen (15) days post-event;

(11) A prescription for a narcotic shall not be written during an event unless approved by a designated dental prescription coordinator who shall hold a full license to practice dentistry in the Commonwealth of Kentucky. The prescription shall be approved if it is medically appropriate;

(12) A written emergency medical response plan shall be kept on site; and

(13) All charitable dental practices larger than forty (40) chairs shall have at least one (1) portable oxygen tank and emergency response (ER) kit[~~Basic Life Support (BLS) ambulance~~] on site for the duration of the event.

Section 5. Registered Dental Assistants and Auxiliary Personnel. (1) For the purpose of a charitable dental practice an individual performing a duty in the charity event, other than a licensed dentist or licensed dental hygienist, shall be restricted to the duties of a dental auxiliary; and

(2) A radiograph shall not be taken unless the person performing the x-ray has met the requirements of 201 KAR 8:571.

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

(a) "Guidelines for Infection Control in Dental Health-Care Settings", December 2003; and

(b) "Infection Control Inspection Checklist", July 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

JEFF ALLEN, Executive Director

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this Amendment shall be held on May 24 at 9 a.m. Eastern Time at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222. 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 Amendment. 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 Amendment. Written comments shall be accepted through May 31, 2019. Send written notification of intent to be heard at the public hearing, or written comments on the proposed Amendment to the contact person below.

CONTACT PERSON: Jeff Allen, Executive Director, Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email jeffrey.allen@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeff Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for charitable

dental practices.

(b) The necessity of this administrative regulation: KRS 313.254(8) requires the board to promulgate administrative regulations relating to the charitable practice of dentistry.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 313.021(1) requires the board to exercise all of the administrative functions of the Commonwealth in the regulation of the profession of dentistry, KRS 313.060(1) requires the board to promulgate administrative regulations relating to dental practices, and KRS 313.254(8) requires the board to promulgate administrative regulations relating to the charitable practice of dentistry.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation details the requirements for the charitable practice of dentistry.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the tests and equipment necessary for the charitable practice of dentistry.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to bring the administrative regulation up-to-date with the current best practices in the field of charitable dentistry.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment updates the tests and equipment necessary for the charitable practice of dentistry, and KRS 313.254(8) requires the board to promulgate administrative regulations relating to the charitable practice of dentistry.

(d) How the amendment will assist in the effective administration of the statutes: The amendment ensures that the regulation of the charitable practice of dentistry is up-to-date and aligned with best practices in the field.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the approximately 200 dentists currently registered to perform charitable dentistry in Kentucky as well as any licensed dentists who register to do so in the future. This amendment is not expected to affect number of dentists performing charitable dentistry.

(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 an amendment, including:

(a) List the actions that each of the related entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity will be required to record each patient's pulse and maintain an ER kit and portable oxygen tank on site at an event if their charitable dental practice houses more than 40 chairs, rather than a BLS ambulance.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Charitable dental practices housing more than 40 chairs will save money as a result of the amendment's requirement to maintain an ER kit and portable oxygen tank on site at an event, rather than a BLS ambulance. No costs will be accrued as a result of the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Charitable dental practices housing more than 40 chairs will save money as a result of the amendment's requirement to maintain an ER kit and portable oxygen tank on site at an event, rather than a BLS ambulance. Additionally, the amendment's requirement to record each patient's pulse will result in enhanced diagnostic ability.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? No; this amendment impacts all similarly situated practitioners equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 313.021, 313.060(1), 313.254(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? None.

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

(c) How much will it cost to administer this program for the first year? No cost.

(d) How much will it cost to administer this program for subsequent years? No cost.

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

Revenues (+/-): None.

Expenditures (+/-): None.

Other explanation: Not applicable.

Board of Ophthalmic Dispensers
(Amendment)

201 KAR 13:040. Licensing[~~; application, examination; experience; renewal; and inactive status~~].

RELATES TO: KRS 326.020, 326.035, 326.040, 326.080

STATUTORY AUTHORITY: KRS 326.020(3), 326.035, 326.040, 326.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3) authorizes the board to promulgate administrative regulations to carry out the purposes and provisions of KRS Chapter 326. KRS 326.040 establishes the requirements for the issuance of a license including experience and passage of an examination. KRS 326.080 requires the annual renewal of licensure. This administrative regulation prescribes the forms, required examinations, experience, renewal requirements, and provisions for inactive status required for licensees.

Section 1. Application for License.[~~(1)~~] A person wishing to obtain a license to practice as an ophthalmic dispenser or apprentice[~~, pursuant to KRS Chapter 326,~~] shall make application to the Kentucky Board of Ophthalmic Dispensers on the appropriate form.[~~, Application for Ophthalmic Dispenser License.~~

~~(2) An applicant for licensure as an apprentice shall complete the form, Application for Apprentice License.~~

~~(3) The board shall admit to the practical examination a candidate who pays the required examination fee of seventy-five (75) dollars and who meets the requirements of KRS 326.040, under oath, that he or she qualifies pursuant to KRS 326.040 and 201 KAR Chapter 13.~~]

Section 2. Required Examinations. (1)[~~The examination~~

~~required pursuant to KRS 326.040(4) shall consist of~~] Passage of[~~each of~~] the following examinations shall satisfy the requirement established in KRS 326.040(4):

(a) The American Board of Opticians (ABO) Basic Examination;

(b) The National Contact Lens Examiners (NCLE) Basic Examination;[~~and~~]

(c) The National Commission of State Opticianry Regulatory Boards (NCSORB) National Practical Examination; or

(d) Both the ABO Practical Examination and the NCLE Practical Examination.

(2)(a) For an applicant who holds an apprentice ophthalmic dispenser license issued by the board, the ABO Basic Examination and the NCLE Basic Examination shall be:

1. Taken before the expiration of thirty (30) months from the date of the original receipt of the apprentice license; and

2. Passed within thirty-six (36) months of the date of the original receipt of the apprentice license.

(b) An apprentice ophthalmic dispenser licensed by the board shall not take an approved[~~the NCSORB National~~] practical examination until all other licensure requirements have been completed.

(3) For an applicant who is applying for licensure based on credentials and experience, the candidate shall have the following:

(a) An active license as a dispensing optician issued by any state or territory of the United States or the District of Columbia that has standards at least as stringent as those required by KRS 326.040; or

(b) An active certification as a dispensing optician under the ABO and the NCLE, and at least two (2) years of experience as a dispensing optician, as verified under oath by both the applicant and by a sponsor with personal knowledge of the applicant's work history.

1. The verifying sponsor shall be licensed either as an ophthalmologist, an optometrist, or an optician.

2. An applicant for licensure based on credentials and experience under this paragraph shall have passed an approved[~~the NCSORB National Optician's~~] practical examination before application.

Section 3. Experience. The following events are[~~In addition to the experience requirement established in KRS 326.035, the board shall also count as~~] qualifying experience for an applicant for licensure as an ophthalmic dispenser apprentice[~~any time spent~~]:

(1) Attending a recognized school for ophthalmic dispensing; or

(2) Working in an optical laboratory as an ophthalmic technician.

Section 4. Licensure Renewal. (1) Each license shall be renewed each year on or before December 31.

(2) Each licensee shall complete and submit one (1) of the following:

(a) Application for Renewal for a licensed ophthalmic dispenser;

(b) Application for Apprentice Renewal for a licensed apprentice ophthalmic dispenser; or

(c) The online version of each form maintained by the Department of Professional Licensing.

(3) For a renewal postmarked on or before December 31, or completed and submitted online before that date, the renewal fee shall be:

(a) Seventy-five (75) dollars for a licensed ophthalmic dispenser; or

(b) Fifty (50) dollars for an apprentice ophthalmic dispenser.

(4) For[~~In addition to the renewal fee, a thirty-five (35) dollar administrative late fee shall be paid on~~] a renewal postmarked or submitted on the Department of Professional Licensing website after December 31, there shall be an additional a thirty-five (35) dollar late fee.

(5) A license that has not been renewed by close of business on March 1 shall expire. Applicants may request an extension of time to renew of up to sixty (60) days for reasons related to medical issues, military service, or family emergencies. The applicant shall submit the request for an extension of time in writing, and send the request to the board by certified mail on or before the March 1 expiration date.

(6)[~~(5)~~] In order to qualify for reinstatement of a license that has expired by operation of subsection (4) of this section, either an Application for Reinstatement or an Application for Apprentice Reinstatement shall be submitted to the board. In addition, a reinstatement fee shall be submitted with the application. The reinstatement requirements shall be:

(a) $300 reinstatement fee and twelve (12) additional hours of continuing education to be completed before the end of the current licensure year for reinstatement as an active status or inactive status ophthalmic dispenser; or

(b) Sixty (60) dollars for reinstatement as an apprentice ophthalmic dispenser.

[~~(6) In order to qualify for licensure renewal, a licensee shall comply with the continuing education requirements of KRS 326.020(3)(b) and 201 KAR 13:055.~~]

(7) All revoked and expired licenses must[~~shall~~] be reinstated in order for[~~by~~] the licensee to have the legal authority to resume the practice of ophthalmic dispensing.

Section 5. Temporary Permit Application. (1) The board shall, if requested by the applicant, issue a temporary permit to a qualified ophthalmic dispenser, who otherwise would qualify for a license but is in the state on a temporary basis or who has not yet had an opportunity to take an examination to procure a license and whose immediate employment depends upon being licensed by the board.

(2) The permit shall be valid only until the next regular examination date and in no case shall exceed six (6) months following date of issuance.

(3) The fee for a temporary permit shall be fifty (50) dollars, which amount shall accompany the application.

Section 6. Board Action, Notification. (1) The board shall act only upon those applications that are complete.

(2) Each applicant shall pay the license application and renewal fees required by KRS
326.040 and 326.080 upon submission of the application.

(3) Each applicant shall be notified of the action of the board; and, if favorable, when and where the examination will be held.

(4) If the board considers denying or resolves to deny an application based solely on an applicant's prior conviction of a crime, the board shall follow the notification and procedure requirements in KRS 335B.030(2).

(5) The applicant shall participate in an interview with the application committee upon written request of the board. The application committee shall conduct the interview to determine if the conviction directly relates to the occupation for which the license is sought pursuant to the criteria established in KRS 335B.020(2)(a) through (b) and 335B.030(2)(b).

Section 7. Inactive Status. (1) Upon application, the board shall grant inactive status to a qualified licensee. While on inactive status, the licensee shall not engage in the practice of ophthalmic dispensing.

(2) The fee for licensure on inactive status shall be thirty-five (35) dollars per year.

(3)(a) Continuing education requirements shall be waived for a licensee on inactive status during the inactive period.

(b) If the inactive licensee applies to the board to return to active status, the licensee shall submit proof that he or she has completed six (6) hours of continuing education for ophthalmic dispenser licensees and four (4) hours of continuing education for apprentice ophthalmic dispenser licensees within the last twelve (12) month period immediately preceding the date on which the application is submitted.

(c) The licensee may request that he or she be allowed to return to active status immediately, with the provision that the licensee shall receive the appropriate number of continuing education hours within six (6) months of the date on which the licensee returns to active status.

(d) Additionally, the licensee shall be responsible for meeting the requirements established in 201 KAR 13:055 in order to qualify for renewal of the license.

(4) To change from inactive status to active status, the ophthalmic dispenser licensee shall:

(a) Pay a reactivation fee of forty (40) dollars; and

(b) Complete six (6) additional hours of continuing education before the end of the current licensure year.

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

(a) "Application for Ophthalmic Dispenser or Apprentice License", April 2019;
[~~Application for Ophthalmic Dispenser License", February 2016;~~]

(b)[~~"Application for Apprentice License", August 2017;~~
~~(c)~~] "Application for Renewal", February 2016;

(c)[~~(d)~~] "Application for Apprentice Renewal", February 2016;

(d)[~~(e)~~] "Application for Reinstatement", February 2016; and

(e)[~~(f)~~] "Application for Apprentice Reinstatement", February 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Ophthalmic Dispensers, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CINDY CASTLE, Chair

APPROVED BY AGENCY: April 8, 2019

FILED WITH LRC: April 12, 2019 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on May 22, 2019 at 911 Leawood Drive, 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 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. on May 31, 2019. 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: Carson Kerr, Legal Counsel, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601; phone (502) 782-0760, fax (502) 564-3969, email carson.kerr@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for licensure as an ophthalmic dispenser or an apprentice ophthalmic dispenser.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to advise the public, licensees, and applicants of the requirements for licensure, including fees to be paid, experience required, and examinations. Additionally it addresses inactive license and temporary permit status.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 326.020(3) gives the board the authority to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for application including forms to be completed, fees to be paid, and required experience, education, and examinations. The administrative regulation also establishes other license statuses.

(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 allows licensees to utilize the America Board of Opticians- National Contact Lens Examiners' (ABO-NCLE) practical examination in addition to the already accepted practical examination for the National Commission of State Opticianry Regulatory Board (NCSORB). Additionally, the amendment acts to streamline and improve language, in which the Board admitted applicants to sit for the examination.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to allow applicant's for licensure to sit for the ABO-NCLE practical examination, which is now an accepted practical examination by the Board. Additionally, the amendment removes the requirement that an applicant for licensure pay a $75 fee to sit for an examination that is not proctored, owned or administrated by the Board.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes because KRS 326.040 (4) grants the Board discretion in determining what is a satisfactory examination approved by the Board.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes because it removes a fee for admittance to sit for an examination that the Board no longer proctors, and because it allows applicants another option in choosing which practical examination they submit to.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment will affect practical examination providers ABO-NCLE and NCSORB, in addition to untold applicants for licensure who will no longer be required to pay a fee to be admitted to an examination by the Board.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: ABO-NCLE will be affected because their practical examination will now be accepted for licensure in Kentucky. NCSORB will be affected because they will no longer be the sole accepted practical examination for licensure in Kentucky. Untold applicants for licensure will be positively affected because they will now have a choice in the practical examination they sit for as a prerequisite to licensure in Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no cost.

(c) As a result of compliance, what benefits will accrue to the entities: Applicants for licensure will no longer be required to pay a $75 fee to be admitted to sit for the examination in addition to the cost of actually registering for the examination.

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

(a) Initially: There will be no cost, except the agency will no longer collect a $75 admittance fee for each applicant for initial licensure.

(b) On a continuing basis: There will be no costs on a continuing basis to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No new funding is required to implement this administrative regulation 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: No increase will be necessary to implement this administrative regulation amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applied as the

regulation is equally applicable to all applicants for licensure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 326.020, 326.035, 326.040, 326.080

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This administrative regulation will not generate revenue for the 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 the state or local government.

(c) How much will it cost to administer this program for the first year? There is no anticipated cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated cost 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

Board of Ophthalmic Dispensers
(Amendment)

201 KAR 13:050. Apprentices.

RELATES TO: KRS 326.020, 326.035

STATUTORY AUTHORITY: KRS 326.020(3), 326.035

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(a) authorizes the board to promulgate administrative regulations to carry out the purposes of KRS Chapter 326, including the licensing of apprentice ophthalmic dispensers. KRS 326.035 requires[~~authorizes~~] the board to issue an apprentice license to any person in training to be an ophthalmic dispenser, under the supervision of a licensed opthalmic dispenser, and otherwise qualified pursuant to the administrative regulations promulgated by the board. This administrative regulation establishes the requirements for an apprentice ophthalmic dispenser.

Section 1. Definitions. (1) "Apprentice ophthalmic dispenser" means a person who is in training for the vocation of ophthalmic dispenser and who dispenses ophthalmic lenses, frames, and appurtenances thereto to the intended wearer only under the supervision of an ophthalmic dispenser.

(2) "Ophthalmic dispenser" means a physician, osteopath, optometrist, or licensed ophthalmic dispenser licensed pursuant to KRS 326.040 who is sponsoring an apprentice ophthalmic dispenser.

Section 2. (1) An apprentice license shall be required of any person:

(a) Who is not a licensed ophthalmic dispenser, but is in training to be an ophthalmic dispenser;

(b) While in training works under the supervision of a licensed ophthalmic dispenser; and

(c) Whose duties require that he or she perform the services as would be normally performed by a licensed ophthalmic dispenser.

(2) The board shall revoke the apprentice license at any time if either the employer, the apprentice sponsor, or the apprentice fail to carry out the provisions of this administrative regulation.

(3) A licensed apprentice ophthalmic dispenser shall at all times work under the supervision of, and in the same establishment with, an ophthalmic dispenser, and the ophthalmic dispenser shall be responsible for the actions of the apprentice.

(4) The board shall issue an apprentice license for a period ending December 31 of the current year, upon receipt and board approval of the required application and a fee of fifty (50) dollars, as required by 201 KAR 13:040.

(5) If the apprentice's employment under the sponsoring ophthalmic dispenser is terminated for any reason, the board shall be notified immediately in writing and no later than[~~within~~] thirty (30) days of the last day of employment. An apprentice ophthalmic dispenser who[~~that~~] fails to timely notify the board of termination of employment shall be subject to disciplinary action under KRS 326.090(1)(i).[~~(5) The board shall supply, upon request, a list of approved textbooks covering the subjects on which the examination is based.~~]

(6) The board may reject the application for an apprentice license or rescind a license already issued if, upon inspection, it is found that any of the requirements for an apprentice license[~~, as outlined~~] in KRS 326.035 or any[~~the~~] administrative regulations in 201 KAR Chapter 13 not specifically excluding apprentice licenses are being violated[~~, as provided in subsection (7) of this section, are being violated.~~

~~(7) All administrative regulations within 201 KAR Chapter 13 regarding conduct, paying of fees, suspensions, or revocations and all other administrative regulations within 201 KAR Chapter 13 not specifically excluding apprentice licenses shall apply to the licensed apprentice ophthalmic dispenser~~].

Section 3. (1) An apprentice ophthalmic dispenser shall train for the vocation of ophthalmic dispenser [~~license~~] and demonstrate progress toward an ophthalmic dispenser license to the board by submitting to the board:

(a)[~~complying with the educational timeline established in this section.~~

~~(a) An apprentice ophthalmic dispenser shall submit~~] Proof of the completed training schedule consistent with KRS 326.035(5) no later than[~~to the board for approval within~~] twelve (12) months from the date that the apprentice ophthalmic dispenser license is issued;[~~.~~]

(b) Proof[~~An apprentice ophthalmic dispenser shall submit proof to the board~~] of a passing grade on the American Board of Opticians (ABO) Basic Examination and the National Contact Lens Examiners (NCLE) Basic Examination no later than[~~within~~] thirty-six (36) months from the date that the apprentice ophthalmic dispenser license is issued; and[~~.~~]

(c) Proof of a passing grade on an approved[~~An apprentice ophthalmic dispenser shall submit proof to the board of a passing grade on the National Commission of State Opticianry Regulatory Boards (NCSORB) National~~] practical examination no later than[~~within~~] five (5) years from[~~of~~] the date that the apprentice ophthalmic dispenser license is issued.

(2) An apprentice ophthalmic dispenser who[~~that~~] fails to meet the requirements[~~educational timeline~~] established in subsection (1) of this section shall not have the apprentice license renewed by the board.

(3) A licensee may[~~shall~~] request an extension of [~~the~~]time in which to complete the requirements established[~~educational timeline listed~~] in subsection (1) of this section by submitting a request to the board, in writing, no fewer than[~~within~~] sixty (60) days before expiration of the applicable due date. The board may[~~shall~~] allow an extension of time for any applicant demonstrating a need based on medical necessity, family related

health emergency, or military service.[~~The licensee shall submit with the request for extension documents that support the need for the extension.~~]

CINDY CASTLE, Chair

APPROVED BY AGENCY: April 8, 2019

FILED WITH LRC: April 12, 2019 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on May 22, 2019 at 911 Leawood Drive, 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 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. on May 31, 2019. 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: Carson Kerr, Legal Counsel, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601; phone (502) 782-0760, fax (502) 564-3969, email carson.kerr@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for licensure as an apprentice ophthalmic dispenser.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to advise the public, licensees, and applicants of the requirements for licensure as an apprentice ophthalmic dispenser, including fees, experience, and examinations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms with KRS 326.020, which grants the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes specific requirements for persons seeking licensure as apprentice ophthalmic dispensers, facilitating compliance with KRS Chapter 326.

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

(a) How the amendment will change this existing administrative regulation: This amendment allows licensees to utilize the America Board of Opticians - National Contact Lens Examiners' (ABO-NCLE) practical examination in addition to the already accepted practical examination for the National Commission of State Opticianry Regulatory Board (NCSORB).

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow applicant's for licensure to sit for the ABO-NCLE practical examination, which is now an accepted practical examination by the Board. Additionally, the amendment removes the requirement that an applicant for licensure pay a $75 fee to sit for an examination that is not proctored, owned or administrated by the Board.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes because KRS 326.040 (4) grants the Board discretion in determining what is a satisfactory examination approved by the Board.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes because it allows applicants an additional option for practical examination.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect practical examination providers ABO-NCLE and NCSORB, in addition to all would be applicants for licensure, who will have a choice as to which practical examination they take.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: No specific actions will be required. ABO-NCLE will be affected because their practical examination will now be accepted for licensure in Kentucky. NCSORB will be affected because they will no longer be the sole accepted practical examination for licensure in Kentucky. Untold applicants for licensure will be positively affected because they will now have a choice in the practical examination they sit for as a prerequisite to licensure in Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no new cost to license applicants to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Applicants for licensure will be able to choose which practical examination they submit to.

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

(a) Initially: There is no anticipated cost to implement this administrative regulation.

(b) On a continuing basis: There is no anticipated cost 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: No new funding will be necessary 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: This amendment does not require an increase fees or funding.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation applies equally to all applicants for licensure as apprentice ophthalmic dispensers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 326.020(3), 326.035

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This amendment will not generate revenue for the 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 amendment will not generate revenue for the state or

local government.

(c) How much will it cost to administer this program for the first year? There is no anticipated cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated cost to administer this program for the first year.

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: None

Board of Ophthalmic Dispensers
(Amendment)

201 KAR 13:055. Continuing education requirements.

RELATES TO: KRS 326.020, 326.035, 326.080

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(b) requires licensees of the board to complete continuing education as a condition of license renewal. This administrative regulation establishes a continuing education program for ophthalmic dispenser licensees and apprentice ophthalmic dispenser licensees and the basic requirements, methods of accreditation, and manner of reporting.

Section 1. "Continuing education hour" means fifty (50)[~~contact~~] minutes of participating in continuing education experiences in person before a live presenter. One (1) semester credit hour is equivalent to six (6) continuing education hours.

Section 2.[~~(1) Each ophthalmic dispenser licensee shall be required to complete a minimum of six (6) continuing education hours in order to renew his license each year.~~

~~(2) Each apprentice ophthalmic dispenser licensee shall be required to complete a minimum of four (4) continuing education hours in order to renew his license each year.~~

~~(3)~~] Continuing education hours in excess of the number required at the time of renewal of license shall not be applied to future requirements.

Section 3. (1) A minimum of three (3) of the required six (6) continuing education hours for renewal of ophthalmic dispenser licensure and a minimum of two (2) of the required four (4) continuing education hours for renewal of apprentice ophthalmic dispenser licensure shall be obtained through programs sponsored by entities listed in Section 4(1) of this administrative regulation.

(2)[~~The remaining continuing education hours may be obtained through any of the sources listed in Section 4 of this administrative regulation.~~

~~(3)~~] Repetitious completion of a program shall not entitle the participant to additional continuing education credit.

(3)[~~(4)~~] Licenses issued after August 1 shall be exempt from the continuing education requirement for renewal by December 31 of the same year.

Section 4. Continuing education hours applicable to renewal of licensure shall be directly related to the professional growth and development of ophthalmic dispensers. They may be earned by completing any of the following educational activities:

(1)[~~Programs not requiring board review and approval.~~] An educational program from any of the following providers shall be deemed[~~to be~~] relevant to ophthalmic dispensing and shall be approved without further review by the board[~~if it is provided by~~]:

(a) The Society of Dispensing Opticians of Kentucky;

(b) The Opticians Association of America, or any of its affiliated state chapters;

(c) The Contact Lens Society of America, or any of its affiliated state chapters;

(d) The National Academy of Opticianary, or any of its affiliated state chapters;

(e) The American Optometric Association, or any of its affiliated state chapters;

(f) The American Academy of Ophthalmology, or any of its affiliated state chapters; or

(g) The[~~Southeastern Conference; or~~

~~(h) The~~] National Association of Optometrists and Opticians.

(2) An educational program from any other source shall be reviewed for relevancy to ophthalmic dispensing and subsequent approval[~~Programs requiring board review and approval. A program from any of the following sources shall be reviewed and determined if it is relevant and therefore subsequently approved~~] by the board[~~:~~

~~(a) Accredited schools' continuing education programs; or~~

~~(b) Any other provider's continuing education programs.~~

~~(3) Related areas not specifically a part of the field of ophthalmic dispensing may be approved for up to two (2) continuing education hours, if the board believes that the related areas may serve to enhance the licensee's ability to practice.~~

~~Section 5. Sponsors of continuing education programs shall be responsible for obtaining from the board accreditation for their respective continuing education programs~~].

(a)[~~(1)~~] Programs shall be submitted to the board for review and approval at least thirty (30) days prior to planned participation so the participants can know the value of the experience prior to actual participation.

(b)[~~(2)~~]Requests for program changes shall be made to and accredited by the board or the evaluation and accreditation of the program becomes null and void.

(c)[~~(3)~~]Sponsors shall maintain for three (3) years records of the names of those participants who complete a program.

(3) Related areas not specifically a part of the field of ophthalmic dispensing may be approved for up to two (2) continuing education hours, if the board believes that the related areas may serve to enhance the licensee's ability to practice.

Section 6. Sponsors and licensees requesting approval of continuing education for ophthalmic dispensers shall submit any relevant information reasonably requested by the board[~~the board may require~~].

Section 7. Submission of fraudulent statements or certificates concerning continuing education shall subject the licensee to revocation or suspension of his or her license as provided in KRS Chapter 326.

Section 8. Each licensee shall submit, with the annual renewal application, on forms provided by the board, a list of accredited continuing education hours completed by the licensee during the previous license year.

Section 9. (1)[~~(a)~~] Each person registered with the board shall retain proof of attendance and completion of all continuing education requirements[~~.~~

~~(b) These documents shall be retained~~] for a period of three (3) years from the end of the calendar year in which the continuing education was acquired.[~~(c) This documentation shall be produced for inspection and verification, if requested in writing by the board during its verification process.~~

~~(d) The board shall not maintain continuing education files.~~]

(2)[~~(a)~~] The board shall annually conduct a randomly selected audit of individual records to assure that the continuing education requirements have been met. Audited individuals shall submit[~~(b) An individual's record may be audited during consecutive renewal periods.~~

~~(3) If audited, the individual shall provide evidence of continuing education activities. The evidence shall be~~] either:

(a) Certificates verifying the individual's attendance at the continuing education programs described above; or

(b) An official transcript verifying credit hours earned.[~~One (1) semester credit hour is equivalent to six (6) continuing education~~

~~hours for the purpose of licensure renewal.~~]

Section 10. Upon proper application to the board, a licensee may be granted a deferral from continuing education requirements on a year-to-year basis at the discretion of the board for reasons of illness, incapacity, or other similar extenuating circumstances.

Section 11. Each licensee shall keep the board informed of his or her correct address and place of employment. The board shall be informed in writing of any changes to the licensee's address or place of employment.

CINDY CASTLE, Chair

APPROVED BY AGENCY: April 8, 2019

FILED WITH LRC: April 12, 2019 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on May 22, 2019 at 911 Leawood Drive, 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 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. on May 31, 2019. 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: Carson Kerr, Legal Counsel, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601; phone 502-782-0760, fax 502-564-3969, email carson.kerr@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines and establishes the continuing education requirements for renewal of a license as a licensed ophthalmic dispenser or a licensed apprentice ophthalmic dispenser.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to advise the public, licensees, and applicants of the continuing education requirements for licensure renewal.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as KRS 326.020 authorizes the board to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the continuing education requirements for renewal of a license, assisting in the effective administration of KRS Chapter 326.

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

(a) How the amendment will change this existing administrative regulation: This amendment clarifies required submissions and licensee expectations regarding the continuing education of licensed ophthalmic dispensers. The amendment also removes the Southeastern Conference as an approved provider of continuing education, and revises other parts of the administrative regulation for ease of use.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify required submissions and to remove the Southeastern Conference as an approved provider of continuing education, as it has ceased operations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes because the statutes allow the Board to approve accepted forms of continuing education.

(d) How the amendment will assist in the effective administration of the statutes: This regulation establishes the requirements for continuing education and the amendment modifies same to eliminate confusion regarding approved providers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Licensees seeking guidance on continuing education will be affected by the administrative regulation.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Regulated entities will not need to take additional action to comply with this amendment, whose goal is to simplify and clarify the continuing education process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no cost to regulated entities as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: Licensees will have a simplified process for obtaining continuing education in order to renew their license.

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

(a) Initially: No cost is anticipated to implement this administrative regulation.

(b) On a continuing basis: No cost is anticipated 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: No new funding is required for the implementation and enforcement of 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: No increases in fees or funding will be necessary as a result of this amendment.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the amended regulation is applicable to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 326.020(3)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This amendment will not generate revenue for the 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 amendment will not generate revenue for the state or local government.

(c) How much will it cost to administer this program for the first year? There is no anticipated cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated cost 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

Board of Ophthalmic Dispensers
(Amendment)

201 KAR 13:060. Military service; reciprocity; endorsement.

RELATES TO: KRS 326.020, 326.040

STATUTORY AUTHORITY: KRS 326.020(3), 326.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020 authorizes the board to promulgate administrative regulations to carry out the purposes[~~purpose~~] and provisions of KRS Chapter 326. This administrative regulation exempts[~~from licensure renewal licenses for~~] active members of the military service from licensure renewal, provides reciprocity between the states, and establishes a process for licensure[~~provides licensure~~] by endorsement.

Section 1. Military Service. A licensee who is in the military service is exempt from licensure renewal until he or she is honorably discharged from the service.

Section 2. Reciprocity. (1) A person may be licensed by reciprocity as an ophthalmic dispenser[~~without complying with the provisions of KRS 326.040~~] if that person:

(a) Holds a valid license as an ophthalmic dispenser in another state whose qualifications at the time of licensure were equal to or higher than those requirements established in KRS 326.040 and 201 KAR 13:040; and

(b) Has been actively engaged in the practice of ophthalmic dispensing for a period of two (2) years immediately preceding the date of application.

(2) An applicant for licensure by reciprocity shall submit:

(a) The application[~~Apply for licensure on the~~] form required in 201 KAR 13:040, Section 1(1);

(b)[~~Pay~~] The application fee established in KRS 326.040;

(c)[~~Provide~~] A copy of the current license from the other jurisdiction; and

(d)[~~1. Provide~~] Documents proving passage of an approved[~~the National Commission of State Opticianry Regulatory Boards (NCSORB) National~~] Practical Examination; or a statement of intent to sit for[~~2. Take and pass~~] an approved[~~the NCSORB National~~] Practical Examination within twelve (12) months of application for licensure. [~~The board shall not issue a license until provided documents proving the applicant has passed the NCSORB National Practical Examination.~~]

Section 3. Endorsement. (1) A person may be licensed by endorsement as an ophthalmic dispenser[~~without complying with the provisions of KRS 326.040~~] if that person:

(a) Holds[~~Hold~~] an active and current certification as a dispensing optician under the American Board of Opticians (ABO) and the National Contact Lens Examiners (NCLE);

(b) Has been actively engaged in practice as a dispensing optician for at least two (2) years under the sponsorship of a licensed ophthalmologist, licensed optometrist, or optician certified by the ABO and NCLE.

(2) An applicant for licensure by endorsement shall submit:

(a) The application[~~Apply for licensure on the~~] form required in 201 KAR 13:040, Section 1(1);

(b)[~~Pay~~] The application fee established in KRS 326.040;

(c)[~~Provide~~] Documents verifying that the applicant holds active and current certification as a dispensing optician;

(d)[~~Provide~~] Documents verifying the applicant has engaged in at least two (2) years of practice as a dispensing optician sponsored by a licensed ophthalmologist, licensed optometrist, or optician certified by the ABO and NCLE; and either

(e)[~~1. Provide~~] Documents proving passage of an approved [~~the NCSORB National~~] Practical Examination[~~;~~] or a statement of intent to sit for[~~2. Take and pass~~] an approved[~~the NCSORB National~~] Practical Examination within twelve (12) months of application for licensure. [~~The board shall not issue a license until provided documents proving the applicant has passed the NCSORB National Practical Examination.~~]

CINDY CASTLE, Chair

APPROVED BY AGENCY: April 8, 2019

FILED WITH LRC: April 12, 2019 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2019 at 10:00 a.m. at 911 Leawood Drive, 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 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. on May 31, 2019. 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: Carson Kerr, Legal Counsel, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601; phone (502) 782- 0760, fax (502) 564-3969, email carson.kerr@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the means by which licensure is afforded to those in military service, and those seeking licensure by endorsement and reciprocity as a licensed ophthalmic dispenser or a licensed apprentice ophthalmic dispenser.

(b) The necessity of this administrative regulation: The necessity of this administrative regulation is to advise the public, licensees, and applicants of the requirements for licensure, and the special circumstances by which certain applicants meet the requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for application as a military service member, and for application by reciprocity and endorsement.

(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 improves the language of the existing regulation while allowing applicants by reciprocity and endorsement to take and pass the practical examination as approved by the Board.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to clarify licensure

requirements for individuals exempt from standard licensure requirements.

(c) How the amendment conforms to the content of the authorizing statutes: The administrative regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for application including forms to be completed, fees to be paid, and required experience, education, and examinations. The regulation also establishes other means by which a license may be granted based on applicant's unique circumstances.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects certain persons interested in licensure as an ophthalmic dispenser.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: No specific actions will be required. ABO-NCLE will be affected because their practical examination will now be accepted for licensure in Kentucky. NCSORB will be affected because they will no longer be the sole accepted practical examination for licensure in Kentucky. Untold applicants for licensure will be positively affected because they will now have a choice in the practical examination they sit for as a prerequisite to licensure in Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This amendment will not create any new cost for regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of this amendment, applicants for licensure as ophthalmic dispensers will have a choice regarding which practical examination they submit to.

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

(a) Initially: No cost is anticipated to implement this administrative regulation.

(b) On a continuing basis: No cost is anticipated 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: No new funding will be necessary to implement and enforce this amended 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: This amendment does not require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering was not applied because the amended regulation treats similarly situated applicants equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 326.020(3), 326.040

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? 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? There is no anticipated cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated cost 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

Board of Chiropractic Examiners
(Amendment)

201 KAR 21:041. Licensing; standards, fees.

RELATES TO: KRS 312.085, 312.095, 312.145, 312.175

STATUTORY AUTHORITY: KRS 312.019, 312.085, 312.095, 312.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation establishes the procedures relating to application for licensure, license renewal, and fees.

Section 1. Initial Application. An applicant for initial licensure shall submit to the board:

(1) A completed New Licensee Application; and

(2) A nonrefundable application fee of $350.

Section 2. Licenses. Each license by the board shall:

(1) Set forth the:

(a) Name of the issuing board;

(b) Name of the licensee;

(c) Number of license; and

(d) Date of the license issuance;

(2) Be signed by a minimum of three (3) members of the board; and

(3) Have the seal of the board affixed.

Section 3. License Renewal. (1)(a) Each licensee of the board shall annually renew the license on or before the first day of March.

(b)1. A licensee seeking active status shall:

a. Submit a completed Application for Annual License Renewal; and

b. Pay a renewal fee of $250.

2. A licensee seeking inactive status shall:

a. Submit a completed Annual Inactive License Renewal Application; and

b. Pay a renewal fee of seventy-five (75) dollars.

(2) The amount of the restoration fee established by KRS 312.175(2) and (4) shall be $250 per year, or any part of a year.

(3) Continuing education requirements.

(a) Each active licensee shall complete at least twelve (12) hours of board-approved continuing education, with:

1. A minimum of six (6) <u>classroom</u> hours obtained within Kentucky;

2. A maximum of six (6) online hours may be taken;

3.[~~2.~~] No more than eight (8) hours completed in a day; and

4.[~~3.~~] Proof of completion submitted with the Application for Annual License Renewal.

(b) A new licensee shall complete a two (2) hour jurisprudence course, provided by the board, prior to the first license renewal. The course shall account for two (2) of the twelve (12) hours of continuing education required by paragraph (a) of this subsection.

(c) An inactive licensee may renew the inactive license without meeting the continuing education requirements required by this subsection.

Section 4. Activation of an Inactive License. (1) To activate an inactive license, a licensee shall submit:

(a) A completed Application for Activation or Reinstatement of Kentucky License;

(b) The renewal fee required by Section 3(1)(b) of this administrative regulation;

(c) Proof that the licensee has met the continuing education requirements established by Section 3(3) of this administrative regulation; and

(d) License verification from each state or jurisdiction from which the licensee has held a license.

(2) If the licensee was inactive for more than four (4) years, proof of successfully passing the Special Purposes Examination for Chiropractic given by the National Board of Chiropractic Examiners within the past six (6) months shall be submitted to the board.

Section 5. Denial or Refusal of License. The board may deny or refuse to renew a license if an applicant or licensee:

(1) Has a conviction for a felony or violation of any law involving moral turpitude; or

(2) Violates any of the provisions of KRS Chapter 312 or 201 KAR Chapter 21.

Section 6. Change of Address. Each licensee shall notify the board within ten (10) days of each change of mailing address or place of business.

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

(a) "New Licensee Application", 2016;

(b) "Application for Annual License Renewal", November 2009;

(c) "Annual Inactive License Renewal Application", 2013; and

(d) "Application for Activation or Reinstatement of Kentucky License", 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Chiropractic Examiners, 209 South Green Street, Glasgow, Kentucky 42142, Monday through Friday, 8 a.m. to 4:30 p.m.

KARALEE OLDENKAMP, D.C., Executive Director

APPROVED BY AGENCY: April 9, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2019 at 9:00 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2019. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142; phone (270) 651-2522, fax (270) 651-8784, email kychiro@glasgow-ky.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies the procedures relating to application for licensure, license renewal, license activation and fees for practitioners of chiropractic in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: The necessity of this regulation is to ensure that applicants are placed on notice as to the proper procedures and fees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is given the authority by statute to promulgate administrative regulations to ensure regulation of applicants for licensure and to set fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which applicants apply for licensure and licensees renew or activate their licenses.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation updates the manner in which licensees may earn continuing education credit to renew or activate their licenses.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to update and clarify the manner in which continuing education may be earned for renewal.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by setting forth the procedures and fees for application and renewal thereby placing the public on notice.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the manner in which applications are made to the Board and licenses are renewed which will reduce the amount of time the Board's staff spends answering these basic questions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative directly impacts the approximately 65 annual licensure applicants and 1,075 licensees in the Commonwealth of Kentucky.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees are required to complete the applications and pay the fees associated with initial licensure and renewal or reinstatement as set forth in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The initial application fee is $350. The annual renewal fee is $250. The annual inactive licensure fee is $75. The restoration fee is $250.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The applicants for initial licensure and those who are seeking inactive status or renewal are put on notice of specific requirements for obtaining and maintaining licensure.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by licensees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this amended regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does establish fees; however, this amended administrative regulation does not directly or indirectly increase any existing fees for licensure and renewal.

(9) TIERING: Is tiering applied? Tiering was applied. Licensees who are renewing active licenses are charged more money than licensees with inactive licenses as they are making money by actively practicing chiropractic with those licenses.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 312.019, 312.085, 312.095, 312.175

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? N/A

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

Board of Chiropractic Examiners
(Amendment)

201 KAR 21:042. Standards, application, and approval of continuing education.

RELATES TO: KRS 312.085, 312.175

STATUTORY AUTHORITY: KRS 312.019, 312.085, 312.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation establishes the procedures relating to standards, application, and approval for continuing education.

Section 1. Standards for Continuing Education. (1) Continuing education shall be either:

(a) A post graduate course of study at or sponsored by a chiropractic college accredited by the Council on Chiropractic Education or its successors; or

(b) A continuing education program approved by the board, or a committee designated by the board to act between sessions of the board.

(2) The continuing education program shall be:

(a) Sponsored by a national or state chartered organization of chiropractors; and

(b) Open to all doctors of chiropractic in Kentucky who desire to attend.

(3) The instructors and speakers shall be in the field of chiropractic, chiropractic education, or allied sciences.

(4) The programs to be presented shall contain subjects of clinical benefit to licensees and on a postgraduate level of education.

Section 2. Requirements for Online Continuing Education. (1) The program shall have a mechanism to ensure that users view each page of the program;

(2) The program shall ensure the user has earned all of the time required for the program;

(3) The program shall have a mechanism in place for the user to be able to contact the provider regarding questions about the continuing education program;

(4) The program shall include a mechanism to evaluate the user's knowledge of the subject matter contained in the program;

(5) The program shall provide a printed verification or allow the user to print verification only upon completion of the program;

(6) The program shall ensure that the course time cannot be earned away from the program and shall ensure automatic logout if the keyboard becomes unattended;

(7) Programs shall be earned one (1) at a time. The program shall not grant credit for multiple windows or programs completed simultaneously.

Section 3. Application for Approval. (1) The sponsoring party of a proposed educational program for license renewal shall apply for approval of the program prior to its presentation by providing to the board:

(a) The name of the course;

(b) The name of the sponsoring organization;

(c) The objective of the program;

(d) The number of classroom hours over which the educational program will be presented and the dates presented;

(e) The names of the instructors and speakers and the name and address of the institution with which they are associated, if applicable;

(f) The instructors' or speakers' educational background and other relevant qualifications;

(g) The name and address of the person authorized to certify attendance; [~~and~~]

(h) A non-refundable educational program review fee of twenty-five (25) dollars for programs with one (1) date and one (1) location or $100 for programs with multiple dates and locations, including online courses available for the calendar year; and

(i) Certification of compliance with Section 2 of this administrative regulation, if the educational program is to take place online.

(2) The educational program may be monitored by an officer of the board, the field coordinator of the board, or a person designated by the president of the board.

(3)(a) A proposed program shall be submitted to the board for approval at least sixty (60) days prior to the date of the presentation.

(b) The board, or a designee of the board to act between meetings of the board, shall give written notification of the board's approval or disapproval of the program to the sponsoring party not more than thirty (30) days after receiving the proposed educational program.

(c) Within thirty (30) days of completion of the program, the sponsoring party shall submit to the board an individual, written certification of the:

1. Name and license number of each licensee in attendance at the program;

2. Sessions attended by each licensee; and
3. Number of hours of each session attended.

KARALEE OLDENKAMP, D.C., Executive Director
APPROVED BY AGENCY: April 9, 2019
FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2019 at 9:00 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2019. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142; phone (270) 651-2522, fax (270) 651-8784, email kychiro@glasgow-ky.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards and process for application and approval of continuing education courses.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the standards and process for application and approval of continuing education courses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019(9)(f) authorizes the board to adopt administrative regulations relating to the type, character and location of postgraduate study to be done by any licensee in order to comply with KRS 312.175. This administrative regulation establishes these standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the standards for application and approval of continuing education courses, including the requirements for online education, which are required for license renewal, activation and reinstatement.

(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 outlines the requirements for online continuing education which is being allowed in an amendment to 201 KAR 21:041.

(b) The necessity of the amendment to this administrative regulation: Since the addition of approval of online continuing education, this amendment is necessary to outline the requirements for approval.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes allow the board to set standards for license renewal.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will put the public on notice of the requirements for online continuing education to be approved for license renewal credit.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the approximately 1135 licensed doctors of chiropractic in the Commonwealth of Kentucky as well as any qualified organization or chiropractic college or university who would submit an educational program for review and approval.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees will be aware of the requirements for approval of online continuing education.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Not applicable.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The doctors of chiropractic benefit by having the specific requirements by which continuing education programs are reviewed and approved. The organizations or chiropractic colleges or universities will also benefit by having the requirements for approval for online continuing education programs.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by licensees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this amended regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation does establish a fee for review of educational programs.

(9) TIERING: Is tiering applied? Tiering was not applied as this regulation applies to each group impacted equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.019, 312.085, 312.095, 312.175

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? N/A

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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

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

Board of Physical Therapy
(Amendment)

201 KAR 22:135. Fees.

RELATES TO: KRS 61.874(4), 327.050(2), (8), 327.075(1), 327.080(1)

STATUTORY AUTHORITY: KRS 327.040(11), (13), 327.050(2), (8), 327.075(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(11) authorizes the board to promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of KRS Chapter 327. KRS 327.050(2) and (8) require the board to establish fees for application and renewal of licenses for physical therapists, and KRS 327.075(1) requires the board to establish a reinstatement fee. KRS 327.040(13) authorizes the board to establish reasonable fees for the certification, renewal, and endorsement of physical therapist assistants. This administrative regulation establishes the fees required to apply for a credential by application, reinstatement, or renewal.

Section 1. Payment of Fees. (1) Except as provided in subsection (2) of this section, an application fee shall be:

(a) Made payable as required by KRS 327.080(1); and

(b) Paid by:

1. Cashier's check;

2. Certified check;[~~or~~]

3. Money order;[~~.~~]

4. Credit card;

5. Debit card; or

6. Cash.

(2) A renewal application fee shall be paid:

(a) As required by subsection (1) of this section; or

(b) By personal check.

Section 2. Licensure fees shall be:

(1) $225[~~$200~~] for initial credentialing by application;

(2) $205[~~$180~~] for a reinstatement application plus the impaired practitioner's assessment as set forth in 201 KAR 22:140, Section 1; and

(3) $170[~~$130~~] for a renewal application plus the impaired practitioner's assessment as set forth in 201 KAR 22:140, Section 1.

Section 3. Other administrative fees shall be:

(1) Verification of licensure forty (40)[~~twenty (20)~~] dollars;

(2) Billfold license fifteen (15) dollars;

(3) Wall certificate twenty-five (25) dollars;

(4) Licensure mailing list on a CD or by email $150[~~$100~~]; and

(5) Licensure mailing labels $150.

SCOTT D. MAJORS, Executive Director

APPROVED BY AGENCY: March 21, 2019

FILED WITH LRC: April 9, 2019 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 30, 2019, at 4:00 p.m. (ET) at 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing five 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, 2019. 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Scott D. Majors

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes payment of licensure and renewals fees for physical therapists and physical therapist assistants.

(b) The necessity of this administrative regulation: The regulation is necessary to implement provisions of KRS 327.040; 327.050; and 327.075.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It sets the fees for licensure and renewal for physical therapists and physical therapist assistants.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation apprises interested individuals of the fees charged by the board.

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

(a) How the amendment will change this existing administrative regulation: The amendment increases fees for application, renewal, and reinstatement for physical therapists and physical therapist assistants, as well as fees for verifications and mailing lists.

(b) The necessity of the amendment to this administrative regulation: In order to meet budget without requesting General Fund monies.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to set fees associated with credentialing.

(d) How the amendment will assist in the effective administration of the statutes: The increase of fees is necessary to carry out the duties of KRS Chapter 327 in protecting the public without requesting General Fund monies.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 5,730 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: The regulated entities identified in question (3) will be required to pay an additional sum of $25.00 for new applicants, whether by examination, endorsement or reinstatement, and an additional sum of $40.00 every two years ($20.00 per year) for renewal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The regulated entities identified in question (3) will incur an increase of $25.00 for new applicants, whether by examination, endorsement or reinstatement, and an increase of $40.00 every two years ($20.00 per year) for renewal fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The individuals affected will continue to be served in an efficient manner by the board and staff.

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

(a) Initially: No new costs will be incurred by the change.

(b) On a continuing basis: No new costs will be incurred by the change.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: As this regulation establishes fees, no additional funding is required for implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This

amendment increases some of the fees paid by licensees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does establish fees and increases some fees in order to carry out the duties of KRS Chapter 327 to protect the public.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable 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? This administrative regulation will impact physical therapists and physical therapist assistants credentialed by the board.

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; and 327.075 authorize the action taken by this administrative regulation.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? For fiscal year ending 2020, estimate increase of revenues by $20,000.

(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? For fiscal year ending 2021, estimate increase of revenues by $215,000; 2022 by $23,000.

(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:

KENTUCKY LOTTERY CORPORATION
(Amendment)

202 KAR 3:010. Code of ethics.

RELATES TO: KRS 154A.060(2)(e)

STATUTORY AUTHORITY: KRS 154A.050(1)(d), 154A.060(2)(e)

NECESSITY, FUNCTION, AND CONFORMITY:[~~Pursuant to~~] KRS 154A.060(2)(e) requires[~~,~~] the Kentucky Lottery Corporation to promulgate an[~~is required to adopt by~~] administrative regulation establishing a code of ethics for officers and employees of the corporation. This administrative regulation establishes[~~adopts by administrative regulation~~] the Code of Ethics of the Kentucky Lottery Corporation.

Section 1. Code of Ethics. An officer or employee of the Kentucky Lottery Corporation shall comply with[~~the requirements established in~~] the Kentucky Lottery Corporation Code of Ethics.

Section 2. Incorporation by Reference. (1) The "Kentucky Lottery Corporation Code of Ethics", April 15, 2019[~~July 14, 1998, edition~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the[~~from Camille Bathurst, General Counsel, at the corporate offices of~~] Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202-2623, Monday through Friday, [~~from~~] 8 a.m. to 5 p.m.

This is to certify that the chief executive officer has reviewed and recommended this administrative regulation which was adopted by the Kentucky Lottery Corporation Board of Directors on January 24, 2019 as required by KRS Chapter 154A.050(d).

THOMAS DELACENSERIE, President & CEO

MARY R. HARVILLE, General Counsel & Corporate Secretary

APPROVED BY AGENCY: April 12, 2019

FILED WITH LRC: April 15, 2019 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 29, 2019, at 10:00 a.m., at the Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202-2623. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2019. 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: Mary Harville, Senior Vice President and General Counsel, Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202-2623; phone (502) 560-1576, fax (502) 560-1532, mary.harville@kylottery.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mary Harville

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 154A.060(2)(e) requires the corporation to promulgate an administrative regulation establishing a code of ethics for officers and employees of the corporation. This administrative regulation, through the Materials Incorporated by Reference, establishes the code of ethics for Kentucky Lottery Corporation personnel.

(b) The necessity of this administrative regulation: KRS 154A.060(2)(e) requires the corporation to promulgate by administrative regulation an administrative regulation establishing a code of ethics for officers and employees of the corporation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation sets forth the code of ethics for Kentucky Lottery Corporation employees as required by KRS 154A.060(2)(e).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the code of ethics for Kentucky Lottery Corporation employees as required by KRS 154A.060(2)(e).

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

(a) How the amendment will change this existing administrative regulation: The amended regulation contains the following amendments: See the Summary of Changes to the Materials Incorporated by Reference

(b) The necessity of the amendment to this administrative regulation: The amendments align the code of ethics with the current operating procedures of the Kentucky Lottery Corporation.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation sets forth the code of ethics for Kentucky Lottery Corporation employees as required by KRS 154A.060(2)(e).

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation sets forth the code of ethics for Kentucky Lottery Corporation

employees as required by KRS 154A.060(2)(e).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the Kentucky Lottery Corporation employees. No other entity 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: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

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

(a) Initially: None

(b) On a continuing basis: This regulation will be implemented with existing agency resources and will add no additional implementation costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administrative regulation will be implemented and enforced with agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: None

(9) TIERING: Is tiering applied? No

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 will affect the Kentucky Lottery Corporation and its employees. No other entity will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The state statute which authorizes the action taken by this administrative regulation is KRS 154A.060(2)(e).

(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 does not have the effect of directly generating revenues for the 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? See above response: The administrative regulation will not directly generate revenue for the state or local government.

(c) How much will it cost to administer this program for the first year? This regulation will be implemented with existing agency resources and will add no additional administration costs.

(d) How much will it cost to administer this program for subsequent years? This regulation will be implemented with existing agency resources and will add no additional administration costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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

301 KAR 2:030. Commercial guide license.

RELATES TO: KRS 150.170, 150.412, 164.772

STATUTORY AUTHORITY: KRS 150.025, 150.175(11), 150.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply statewide or to a limited area. KRS 150.175(11) authorizes the department to issue a commercial guide license, which authorizes the holder to guide hunting and fishing parties. KRS 150.190 authorizes the department to ensure that an applicant for a commercial guide license is qualified to act as a commercial guide. This administrative regulation establishes the requirements for a commercial guide license[~~and a guide helper~~].

Section 1. Definitions. (1) "Commercial guide" means a person who advertises or offers services for remuneration to aid others in taking wildlife, excluding classroom instruction or seminars.

(2) "Fishing guide helper" means a person who assists a commercial guide and is in the same boat or is directly alongside of the commercial guide if standing on a stream or river bank and while guiding others in the taking of fish.[~~(3) "Hunting guide helper":~~

~~(a) Means a person who is acting on behalf of a commercial guide license holder, is registered with the department, and whose actions in the field assist in the taking of game animals; and~~

~~(b) Does not include a person assisting only in the recovery and removal of dead game, or tracking wounded game.~~]

Section 2. Commercial Guide License Requirements and Application. (1) A person shall possess a valid Kentucky commercial guide license in order to commercially guide others in the taking of wildlife.

(2) A commercial guide license shall be valid from March 1 through the last day of February.

(3) An applicant for a commercial guide license shall:

(a) Be eighteen (18) years of age or older;

(b) Have not been convicted of any state or federal fish or wildlife violation during the previous three (3) years;

(c) Have not been convicted of a felony;

(d) Possess a valid fishing license and trout permit if applicable; and

(e) Possess a valid hunting license and all applicable game permits.

(4) An elk permit shall not be required to be purchased by a commercial guide[~~or hunting guide helper~~] in order to guide clients in the taking of elk.

(5) Except as established in subsection (6) of this section, in order to obtain a commercial guide license, a person shall submit to the department:

(a) A completed Commercial Guide License Application Form to the Director's Office, Division of Law Enforcement, #1 Sportsman's Lane, Frankfort, Kentucky 40601;

(b) A Law Information Network of Kentucky National Crime Information Center (LINK/NCIC) background check obtained through the Kentucky State Police;

(c) Proof of a valid and up to date certification in:

1. Cardiopulmonary resuscitation (CPR); and

2. First aid;

(d) Proof of completion of a boater education course upon applying for a commercial guide license for fishing in a boat; <u>and</u>

(e) Proof of completion of a hunter education course upon applying for a commercial guide license for hunting. A commercial guide applicant who guides hunters by boat shall also submit proof

of completion of a boater education course[~~; and~~

~~(f) A ten (10) dollar registration fee for each hunting guide helper to be used by the commercial guide~~].

(6) A commercial guide applicant who possesses a valid United States Coast Guard Captain's License, or "six pack", and will guide on a United States Coast Guard regulated waterway may submit a copy of this license in lieu of the boater education course requirements established in subsection (5)(d) of this section and in lieu of the CPR and first aid requirements, as established in subsection (5)(c) of this section, upon applying for a commercial guide license.

(7) While guiding, a commercial guide shall have in possession all required licenses and permits.

(8) While guiding on private land, a commercial guide shall provide at the request of a conservation officer a name and phone number of the person granting the guide permission to be on the property.

(9) A commercial guide shall not facilitate, promote, or assist a client in the violation of any state or federal fish and wildlife law or regulation.

Section 3. Guide Helper. (1) A commercial fishing guide may utilize fishing guide helpers[~~and hunting guide helpers~~].

(2) A fishing guide helper shall have in possession while assisting a commercial guide a valid Kentucky fishing license and applicable permits.

(3)[~~A hunting guide helper shall have in possession while assisting a commercial guide:~~

~~(a) A valid Kentucky hunting license and applicable game permits;~~

~~(b) Proof of completion of a hunter education course;~~

~~(c) Proof of completion of a boater education course if helping a commercial guide by boat; and~~

~~(d) A hunting guide helper certification card.~~

~~(4) Effective March 1, 2016, a hunting guide helper shall be required to provide proof of a valid and up-to-date certification in:~~

~~(a) Cardiopulmonary resuscitation (CPR); and~~

~~(b) First aid.~~

~~(5) A hunting guide helper shall be registered with the department by the licensed commercial guide he or she represents.~~

~~(6) A hunting guide helper shall:~~

~~(a) Be at least eighteen (18) years old;~~

~~(b) Not be convicted of a state or federal fish or wildlife violation during the previous three (3) years; and~~

~~(c) Not have been convicted of a felony.~~

~~(7)~~] A commercial fishing guide[~~license holder~~] shall be responsible for any violation of this administrative regulation by a helper who is registered by the commercial guide.

Section 4. Commercial Guide License Prohibitions and Revocation. (1) A commercial guide or guide helper shall not participate in the taking of fish or game beyond the bag limit or creel limit of the person or persons being guided, except that a commercial guide or guide helper may take a daily bag or creel limit of fish or game while guiding.

(2) The department shall revoke and not renew the commercial guide license[~~or hunting guide helper certification,~~] for a period of three (3) years[~~one (1) year~~], of a person convicted of any state or federal fish or game violation.

(3) The department shall permanently revoke the commercial guide license[~~or hunting guide helper certification~~] of a person convicted of a felony.

(4) An individual whose commercial guide license[~~or hunting guide helper certification~~] has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B within fifteen (15) days of receipt of the notice of revocation or denial.

Section 5. Incorporation by Reference. (1) "Commercial Guide License Application Form", 2019[~~2016~~] edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RICH STORM, Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: April 11, 2019

FILED WITH LRC: April 12, 2019 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2019, at 9:00 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, 2019. 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 requirements for commercial hunting and fishing guides.

(b) The necessity of this administrative regulation: This regulation is necessary to establish minimum regulatory standards and qualifications for commercial guides.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply statewide or to a limited area. KRS 150.175(11) authorizes the department to issue a commercial guide's license, which authorizes the holder to guide hunting and fishing parties. KRS 150.190 authorizes the department to ensure that an applicant for a commercial guide license is qualified to act as a commercial guide.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the minimum standards and qualifications for commercial guides and ensures that an applicant is qualified to act as a commercial guide.

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

(a) How the amendment will change this existing administrative regulation: This amendment eliminates the hunting guide helper classification, holds commercial guides accountable for illegal activities by their clients in which the guide has assisted or facilitated, increases the revocation period from 1 year to 3 years for any state or federal fish and wildlife violation, and modifies the commercial guide license application form that is incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to strengthen the requirements for commercial guides, to ensure that anyone assisting or facilitating hunting clients has a valid commercial guide license, and to increase the revocation period to deter illegal activity.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals who commercially guide clients will be affected by this amendment. For the 2018-19 license year, a total of 317 commercial guide licenses were sold. There were also 128 hunting guide helpers listed on the commercial guide applications.

(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: Commercial hunting guides will no longer be able to employ guide "helpers" unless the "helpers" become licensed commercial guides. A commercial guide who is convicted of any state or federal fish and wildlife violation will have their license revoked for a period of 3 years. All guide applicants will also need to fill out the amended commercial guide application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The commercial guide license will continue to cost $150 for residents and $400 for nonresidents.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will not be any benefits to the entities identified in question (3).

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

(a) Initially: The cost to the department to implement this administrative regulation amendment should be negligible initially, except that there will be an increase in the number commercial guide licenses to process.

(b) On a continuing basis: The amendment will not cost the department more 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 the commercial guide license fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The administrative regulation did not establish any fees, but it indirectly increased fees for current hunting guide helpers if they choose to purchase a commercial guide license.

(9) TIERING: Is tiering applied? Tiering was not applied because all individuals wishing to be a commercial guide are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The department's Divisions of Fisheries, Wildlife, and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 150.025, 150.175(11), and 150.190.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is unknown how many hunting guide helpers will end up obtaining a commercial guide license, but if every one of them did purchase a guide license, then it would generate at least an additional $17,000 initially.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? It is unknown how many hunting guide helpers will end up obtaining a commercial guide license, but if every one of them did purchase a guide license, then it would generate at least an additional $17,000 in subsequent years based on the license numbers from 2018-19.

(c) How much will it cost to administer this program for the first year? It will not cost more to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? It will not cost more to administer this program during subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Amendment)

804 KAR 7:020. Alcoholic beverage inventory[~~Stock~~] during prohibited alcoholic beverage sales[~~suspension of license~~] period.

RELATES TO: KRS 243.480, 243.490, 243.500, 243.540, 244.085

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate administrative regulations regarding matters over which the board has jurisdiction. KRS 244.085(5)(b) authorizes minors on the premises of a retail drink licensee if all alcoholic beverage inventory is kept in a locked department when minors are on the premises. KRS 243.480, 243.490, and 243.500 authorize the board to suspend or revoke licenses authorizing alcoholic beverage sales but make[~~There being~~] no specific provision for the handling or custody of the retail licensee's alcoholic beverage inventory during a suspension period or the period following license revocation when a licensee may transfer its inventory pursuant to KRS 243.540(2)[~~stock of a retail licensee, this administrative regulation is necessary to inform the licensee that his stock of alcoholic beverages, during the period of suspension, should be under lock and key or the entire business closed~~]. This administrative regulation defines "locked department" and provides that during periods alcohol sales are prohibited a retail licensee shall either keep all alcoholic beverage inventory in a separate locked department or close the entire business.

Section 1. Definition. For purposes of KRS 244.085(5) and this administrative regulation, "locked department" means any area, including rooms, windows, displays, show cases, and shelves, which contains alcoholic beverage inventory and which is secured by a lock and key so that consumers do not have access to the inventory. Locked departments may have sliding or hinged doors or nets and be constructed of any material which prevents consumer access to alcoholic beverage inventory[~~(1) Since the~~ Alcoholic Beverage ~~Control Law makes no specific provision for the disposition of the stock of merchandise during the period a retail license is suspended, it is therefore ordered that the retail licensee must keep the entire stock of merchandise in a separate locked department or close his place of business during the period of the suspension.~~

~~(2) Failure to comply with this administrative regulation will subject the licensee to possible revocation~~].

Section 2. Alcoholic Beverage Inventory During License Suspension. (1) During the period a retail licensee is prohibited from selling alcoholic beverages pursuant to a license suspension,

all alcoholic beverage inventory shall be kept in a separate locked department or the licensed place of business shall be closed.

Section 3. Inventory Following License Revocation. (1) During the period in which a former retail licensee is permitted to possess and transfer alcoholic beverage inventory pursuant to KRS 243.540(2), all alcoholic beverage inventory shall be kept in a separate locked department, or the place of business shall be closed, until the alcoholic beverage inventory is actually transferred.

CAROL BETH MARTIN, Acting Commissioner
K. GAIL RUSSELL, Secretary
APPROVED BY AGENCY: April 15, 2019
FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 1:00 p.m. on May 27, 2019 at 1003 Twilight Trail. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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: Marc Manley, Executive Adviser, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone 502-782-1045, fax 502-564-7479, email marc.manley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Marc Manley

(1) Provide a brief summary of:

(a) What this administrative regulation does: Combines the provisions of 804 KAR 7:030, Locked department, with this regulation, and provides guidance on how a licensee whose license has been revoked may continue to possess alcohol during the period it is authorized to transfer its alcohol inventory following revocation pursuant to KRS 243.540(2). It also provides a definition for "locked department" as that term is used in KRS 244.085(5) because there currently is not a statutory definition of "locked department."

(b) The necessity of this administrative regulation: Without this regulation there would not be any legal authority for a licensee to keep its business open to the public during a licensee suspension unless all alcohol inventory was physically removed from the premises. It is also necessary because it provides guidance for the storage of alcohol inventory possessed by a licensee whose license had recently been revoked following a final order of the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 241.060 authorizes the Alcoholic Beverage Control Board to promulgate regulations necessary to carry out the provisions of KRS Chapters 241-244. KRS 243.490 and KRS 243.500 discuss license suspension and revocation, but do not provide for the storage and custody of alcoholic beverage inventory following suspension or revocation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation has existed in some form since 1975. It remains an important regulatory tool to enforce final orders issuing license suspensions.

(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 combine the provisions of former 804 KAR 7:030 with this administrative regulation so that 804 KAR 7:030 may be repealed. It further provides guidance to licensees whose licenses have been recently revoked regarding how they may store alcoholic beverage inventory and remain open to the public for nonalcoholic business purposes. Finally, it provides a definition for "locked department" for purposes of KRS 244.085(5), which authorizes minors on the premises if alcohol is stored in a locked department but does not define "locked department."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary so that 804 KAR 7:030 may be repealed. It is also necessary to provide a definition for "locked department" as that term is used in KRS 244.085(5).

(c) How the amendment conforms to the content of the authorizing statutes: KRS 241.060 authorizes the Alcoholic Beverage Control Board to promulgate regulations necessary to carry out the provisions of KRS Chapters 241-244. The board is authorized to regulate the manner in which alcoholic beverages are possessed and stored following disciplinary action by the board.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will clarify that former licensees whose licenses were revoked are permitted to continue possessing alcoholic beverage inventory and remain open for business for nonalcoholic beverage purposes so long as the alcoholic beverage inventory is clearly locked away from consumers. It also permits the repeal of 804 KAR 7:030 by consolidating its provisions with this administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all retail licensees.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Those affected by this amendment will not have to take additional steps to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Retailers will not face any additional costs as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: This administrative regulation provides an option to retailers that do not wish to close their business during a period in which they are prohibited from selling alcohol.

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

(a) Initially: There are no anticipated costs to implement this administrative regulation.

(b) On a continuing basis: There are no anticipated costs associated with this regulation.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding are 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.

(9) TIERING: Is tiering applied? No tiering is applied because this administrative regulation applies equally to similarly situated regulated entities.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Alcoholic Beverage Control

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative

regulation. KRS 241.060(1)

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This administrative regulation will not generate revenue for state or 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 administrative regulation will not generate revenue for state or local governments.

(c) How much will it cost to administer this program for the first year? There are no governmental costs associated with this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There are no governmental costs associated with this administrative regulation.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

PUBLIC PROTECTION CABINET
Department of Insurance
(Amendment)

806 KAR 9:001. Prelicensing courses of study[~~; instructors~~].

RELATES TO: KRS 304.4-010, 304.9-105, 304.9-230

STATUTORY AUTHORITY: KRS 304.2-110, 304.9-105, 304.9-230

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code[~~as defined in KRS 304.1-010~~]. KRS 304.9-105 requires the commissioner to promulgate administrative regulations to mandate a prelicensing course of study for all agents except for a variable life and variable annuities line of authority and limited lines of authority. KRS 304.9-230 requires the commissioner to promulgate administrative regulations regarding a prelicensing course of study for limited lines of authority. This administrative regulation establishes the guidelines for instructors and for courses of instruction to be completed by each individual applying for an agent license in the Commonwealth of Kentucky.

Section 1. Approved Course Required, Exceptions[~~Definitions~~]. (1) An individual applying for an agent license[~~"Commissioner" is defined by KRS 304.1-050(1).~~

~~(2) "Department" is defined by KRS 304.1-050(2).~~

~~Section 2. (1) Except for individuals applying for a limited line of authority as identified in KRS 304.9-230, or a rental vehicle managing employee license, all agent applicants~~] shall complete a course of classroom or self-instruction study, approved by the commissioner[~~in accordance with subsection (3) of this section~~], which shall include a minimum of forty (40) hours for life and health insurance, forty (40) hours for property and casualty insurance, or twenty (20) hours for each line of authority, as applicable, for which a license is sought[~~the agent is applying~~].

(2) Section 1(1) shall not apply to an individual applying for:

(a) A limited line of authority as identified in KRS 304.9-230; or

(b) A rental vehicle managing employee license.

Section 2. Course Application and Approval. (1) Prior to offering a course, a prelicensing course provider shall submit either in writing [~~(2) (a) A prelicensing course of study shall be approved by the commissioner or the commissioner's designee, in accordance with paragraph (c) of this subsection, prior to authorized use and shall be renewed biennially.~~

~~(b) An outline of the content of each prelicensing course of study, together with the name and qualifications of the instructors, shall be submitted in writing to the department. Submission of the prelicensing course of study shall be made on Form CE/PL-100, incorporated by reference in 806 KAR 9:340,~~] or electronically through the department's Web site, http://insurance.ky.gov:[~~.~~]

(a) Form CE/PL-100, incorporated by reference in 806 KAR 9:340;

(b) Form CE/PL-200, incorporated by reference in 806 KAR 9:340;

(c) The fee established in 806 KAR 4:010; and

(d) An outline of the content of the course of study.

(2)[~~Submission of the qualifications of the instructors shall be made on Form CE/PL-200, incorporated by reference in 806 KAR 9:340, or electronically through the department's Web site, http://insurance.ky.gov.~~

~~(c)~~] In approving a prelicensing course of study, the commissioner or the commissioner's designee shall consider whether the course of study covers the subject matter included in the department's current study outlines or their equivalent.

(3) If approved, a prelicensing course of study approved by the commissioner shall be renewed biennially[~~An applicant for a limited line of authority as identified in KRS 304.9-230 shall not be required to complete any prelicensing course of study for this line of authority~~].

Section 3. Validity.[~~Prelicensing courses of study and instructors filed with the commissioner shall be accompanied by the fees as set forth in 806 KAR 4:010.~~

~~Section 4.~~] A prelicensing course of study is valid for one (1) year from the date of completion.

Section 4. Proof of Completion. [~~5.~~]The prelicensing provider shall submit proof of completion of a course of study on Form CPL-01, incorporated by reference[~~as prescribed~~] in 806 KAR 9:340, or electronically through the department's Web site, http://insurance.ky.gov, for each applicant.

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:30 a.m. on May 24, 2019 at 215 W. Main St., Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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 O'Connor II, Deputy Commissioner, 215 W. Main St., Frankfort, Kentucky 40602, phone 502-564-6026, fax 502-564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and process for prelicensing courses of study required for licensure as an insurance agent.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to fulfill the requirements of KRS 304.9-105 and KRS 304.9-230.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation fulfills the requirements of KRS 304.9-105 and KRS 304.9-230 by providing rules for courses of study for insurance agents.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will provide clarity for course providers and license applicants regarding requirements and procedures.

(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 clarify and simplify the application process for prelicensing course providers.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update and clarify the application, approval, and renewal process for insurance agent prelicensing courses.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms with the requirements of KRS 304.9-105 and KRS 304.9-230 that the commissioner promulgate regulations to mandate prelicensing courses of study.

(d) How the amendment will assist in the effective administration of the statutes: This amendment rearranges requirements into list formats that are easier for licensees to read and use, as well as eliminating unnecessary and duplicative language from the previous administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect insurance agent applicants and providers of prelicensing courses.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Insurance agent applicants will have to comply with the course of instruction requirements, which have not been substantively amended. Prelicensing course providers will have to provide fewer accompanying materials with their application forms than under the existing administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no new cost to any of the regulated entities created by this amendment; the cost to prelicensing providers is set by 806 KAR 4:060, the administrative regulation establishing all fees charged by the department.

(c) As a result of compliance, what benefits will accrue to the entities: Compliance will be easier with the clarity provided by this amendment.

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

(a) Initially: There will be no cost to the department to implement this amendment.

(b) On a continuing basis: There will be no cost to the department to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is needed to implement 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: No increases in fees or funding will 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 amendment does not establish any fees or increase any fees. Department of Insurance fees are set in 806 KAR 4:060.

(9) TIERING: Is tiering applied? Tiering is not applied because all applicants are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110, 304.9-105, and KRS 304.9-230.

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This amendment to this administrative regulation will not generate revenue for the 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 amendment to this administrative regulation will not generate revenue for the state or local government.

(c) How much will it cost to administer this program for the first year? There is no additional cost to administer this amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to administer this amendment for subsequent years.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

PUBLIC PROTECTION CABINET
Department of Insurance
(Amendment)

806 KAR 9:020. False or deceptive names, titles, prohibited.

RELATES TO: KRS[~~292.330(1),~~] 304.1-010, 304.09, 304.12-130

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes that the Commissioner of Insurance to make administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code[~~as defined in KRS 304.1-010~~]. This administrative regulation prohibits the use of names, titles, degrees, certificates, accomplishments, or the like, that implies a greater skill or knowledge than the person actually possesses.

Section 1. Prohibited Conduct.[~~Definitions. (1) "Agent" is defined in KRS 304.9-020(1).~~

~~(2) "Annuity" is defined in KRS 304.5-030.~~

~~(3) "Commissioner" is defined by KRS 304.1-050(1).~~

~~(4) "Consultant" is defined in KRS 304.9-040.~~

~~(5) "Insurer" is defined in KRS 304.1-040.~~

~~(6) "Licensee" means agent, insurer, if an agent is not involved, and consultant.~~

~~(7) "Life Insurance" is defined in KRS 304.5-020.~~

~~Section 2.~~] A person licensed pursuant to the Kentucky Insurance Code[~~KRS Chapter 304, Subtitle 9~~], shall not, in the conduct of business, use, or knowingly permit to be used on the person's behalf, any name, title, letters, degrees, certificate, accomplishment, award, designation or the like, which [~~:~~

~~(1)~~] implies or purports to convey that:

(1) The person possesses a greater skill, knowledge, experience or qualification than is actually a fact; or

(2)[~~Exceeds the maximum requirements for licensing under the Kentucky Insurance Code as defined in KRS 304.1-010; or~~

~~(3) Implies or purports to convey that~~] The person possesses a greater skill, knowledge, experience, or qualification in advising or servicing seniors in connection with the solicitation, sale, or purchase of a life insurance or annuity product than is actually a fact. The manner in which specified words are used shall be a factor in determining whether a name or title is in violation, and shall consider the combinations of:

(a) "Senior", "retirement", "elder", or similar words;

(b) With "certified", "registered", "chartered", "advisor", "specialist", "consultant", "planner", or similar words.

Section 2. Properly Conferred Titles Permitted. This administrative regulation shall not prohibit the use of names, titles, letters, degrees, certificates, recognition of accomplishments, awards, designations, or the like which have been properly conferred upon a licensee by:

(1) A duly accredited and recognized college or university; or

(2) A duly accredited and recognized professional association or society.

Section 3. Certain Job Titles Prohibited.[~~Section 2 of~~] This administrative regulation shall not prohibit the use of[~~names, titles, letters, degrees, certificates, recognition of accomplishments, awards, designations, or the like which have been properly conferred upon a licensee by:~~

~~(1) A duly accredited and recognized college or university; or~~

~~(2) A duly accredited and recognized professional association or society.~~

~~Section 4. Factors Constituting a Certification or Designation. In determining if a combination of words, or an acronym standing for a combination of words, constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include:~~

~~(1)(a) Use of the words "senior", "retirement", "elder", or similar words;~~

~~(b) Combined with "certified", "registered", "chartered", "advisor", "specialist", "consultant", "planner", or similar words; and~~

~~(2) The manner in which those words are combined.~~

~~Section 5. Certain Job Titles.~~] a job title within an organization[~~that is~~] licensed or registered by a state or federal financial services regulatory agency, including an agency that regulates insurance licensees,[~~shall not be a certification or professional designation,~~] unless:

(1) It is used in a manner that would confuse or mislead a reasonable consumer; and

(2) The job title:

(a) Indicates seniority or standing within the organization; or

(b) Specifies an individual's area of specialization within the organization. [~~Section 6. This administrative regulation shall not exempt an individual from compliance with the registration requirements of KRS 292.330(1) if the individual transacts business in this state as a broker-dealer, investment adviser, agent, or investment adviser representative.~~]

NANCY G. ATKINS, Commissioner

K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 11:00 a.m. on May 24, 2019 at 215 W. Main St., Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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 O'Connor II, Deputy Commissioner, 215 W. Main St., Frankfort, Kentucky 40602, phone 502-564-6026, fax 502-564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prohibits insurance licensees from using false or deceptive names or titles in the conduct of the business of insurance.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to protect consumers from insurance licensees who might otherwise use names or titles that imply greater expertise than the licensee in fact has.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes that the Commissioner of Insurance to make administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. This administrative regulation prohibits the use of names, titles, degrees, certificates, accomplishments, or the like, that implies a greater skill or knowledge than the person actually possesses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists the Insurance Commissioner's efforts to protect consumers from unscrupulous licensees.

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

(a) How the amendment will change this existing administrative regulation: This amendment clarifies prohibitions in the titles and names of insurance licensees, as well as the usage and specific application to senior citizen consumers.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to simplify and clarify the prohibited words, titles, and their usage in the names of insurance licensees.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes that the Commissioner of Insurance to make administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies prohibited practices to assist the Insurance Commissioner's efforts to protect consumers from unscrupulous licensees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all current and future licensees of the Department.

(4) Provide an analysis of how the entities identified in the

previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Regulated entities and applicants will be required to ensure their titles and businesses do not include words or combinations of words that create a false impression of expertise in violation of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No cost is anticipated to regulated entities to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: Regulated entities will know their competition is not being permitted to use deceptive names or titles to attract consumers.

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

(a) Initially: There will be no cost to implement this amendment.

(b) On a continuing basis: There will be no cost to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is necessary for the implementation of this amendment; the Division of Agent Licensing already enforces this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applied because similarly situated licensees are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This administrative regulation will not generate revenue for the 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 the state or local government.

(c) How much will it cost to administer this program for the first year? There is no cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no cost 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

PUBLIC PROTECTION CABINET
Department of Insurance
(Amendment)

806 KAR 9:070. Examinations.

RELATES TO: KRS 304.1-050, 304.1-110(2), 304.4-010, 304.9-030(2), 304.9-105, 304.9-160, 304.9-190, 304.9-230, 304.9-320, 304.9-430, 304.9-505(5)(e), 304.15-700

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.9-160(1), 304.9-230(2), 304.15-700(2)(a), 304.15-720

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the commissioner[~~Commissioner of Insurance~~] to promulgate administrative regulations necessary for, or as an aid, to the effectuation of[~~,~~] any provision of the Kentucky Insurance Code, as defined in KRS 304.1-010. KRS 304.9-160(1) requires the commissioner to promulgate administrative regulations to develop and conduct examinations required by Subtitle 9 of the Kentucky Insurance Code. KRS 304.9-230(2) requires the commissioner to promulgate administrative regulations regarding examinations for limited lines of authority. KRS 304.15-700(2)(a) requires the commissioner to promulgate administrative regulations regarding the required training and examination for life settlement brokers, and KRS 304.15-720 authorizes the commissioner to promulgate regulations to implement KRS 304.15-700 through 304.15-720. This administrative regulation sets forth the timeframe during which an applicant for an agent's, life settlement broker's, consultant's, independent adjuster's, staff adjuster's, or public adjuster's license may take the appropriate examination required by the Kentucky Insurance Code, as defined in KRS 304.1-010, establishes the minimum score for successful completion of a written licensing examination, and establishes the period for which examination scores are valid.

Section 1.[~~Definitions. (1) "Commissioner" is defined by KRS 304.1-050(1).~~

~~(2) "Department" is defined by KRS 304.1-050(2).~~

~~(3) "Examination" means a written examination required to license an applicant in accordance with KRS Chapter 304 for an independent adjuster, staff adjuster, public adjuster, agent, consultant, or life settlement broker license.~~

~~(4) "License" is defined by KRS 304.1-110(2).~~

~~Section 2.~~] Individual Insurance Producer License Application. Prior to the date of a scheduled examination, an applicant seeking an individual insurance producer license shall submit:

(1) A completed Form 8301, "NAIC Individual Insurance Producer License Application", incorporated by reference in 806 KAR 9:340[~~, for the examination and documentation demonstrating successful completion of any required prelicensing training shall be filed with the commissioner by, or on behalf of, the applicant, prior to the date scheduled for the examination. The application shall be accompanied by fees specified in KRS 304.4-010 and 806 KAR 4:010.~~]; and

(2) All applicable fees specified in 806 KAR 4:010.

Section 2[~~3~~]. Examination Passage. Every applicant for a license who is required to take an examination shall answer correctly seventy (70) percent of the questions to successfully pass the examination.

Section 3[4]. Examination Retake. An applicant retaking[~~Applicable fees, as set out in KRS 304.4-010 and 806 KAR 4:010, Section 1(15), shall be submitted with the request to retake~~] the examination shall submit:

(1) A completed Form 8304,[~~. The request shall be made on an~~] "Examination Retake Form", incorporated by reference in 806 KAR 9:340; and

(2) All applicable fees specified in 806 KAR 4:010.

Section 4[~~5~~]. Individual License Examinations by Line of Authority. An individual applying for a line of authority identified in KRS 304.9-030(2) shall successfully complete examinations as

follows:

(1) For life line of authority, a life examination;

(2) For health line of authority, a health examination;

(3) For property line of authority, a property examination;

(4) For casualty line of authority, a casualty examination;

(5) For personal lines, a property and casualty personal lines examination; and

(6) For a line of authority identified in accordance with KRS 304.9-030(2)(h), an examination appropriate for the kind of insurance[~~; and~~

~~(7) For variable life and variable annuity products, no examination is required~~].

Section 5[~~6~~]. Individual License Examinations for Limited Lines of Authority. (1)[~~The provisions of this administrative regulation shall apply to every individual resident applicant for a limited line of Authority identified in KRS 304.9-230(1).~~

~~(2)~~] Examinations shall be required for the following individual[~~An individual applying for~~] limited lines of authority[~~as~~] identified in KRS 304.9-230[~~shall successfully complete examinations as follows~~]:[~~(a) For surety limited line of authority, a surety examination;~~

~~(b) For travel limited line of authority, a travel examination;~~]

(a)[~~(c)~~] For crop limited line of authority, a crop examination;[~~(d) For credit limited line of authority, an examination shall not be required;~~] and

(b)[~~(e)~~] For rental vehicle limited line of authority, a rental vehicle examination, which shall be administered or monitored by a[~~the~~] rental vehicle agent pursuant to 806 KAR 9:265.

Section 6[~~7~~]. Life Settlement Broker Examination. An individual applying for a life settlement broker license shall successfully complete a life settlement examination unless exempt from examination pursuant to KRS 304.15-700(2)(b). The examination shall be given by the commissioner or in accordance with provisions of an agreement the commissioner executes with another state.

Section 7[~~8~~]. Adjuster Examination. (1) An individual applying for a line of authority identified in KRS 304.9-430(7) or (8) shall:

(a) For property and casualty line of authority, successfully complete a property and casualty adjuster examination;

(b) For workers' compensation line of authority, successfully complete a workers' compensation adjuster examination; and

(c) For crop line of authority, successfully complete a crop adjuster examination.

(2) In lieu of successfully completing the crop adjuster examination required by subsection (1)(c) of this section, an individual applying for a crop line of authority may demonstrate certification through the Crop Adjuster Proficiency Program, by providing to the department a copy of a Crop Adjuster Proficiency Program certification identification card with an active status issued by the federal Risk Management Agency, an agency within the U.S. Department of Agriculture, which specifies the applicant has passed a proficiency examination to adjust multi-peril crop claims.

Section 8[~~9~~]. Time Limits. (1) If an applicant who applies to take the examinations required by KRS Chapter 304 does not take an examination or fails to pass an examination within 120 days of the filing the application, the application shall become invalid, unless the commissioner grants an extension for good cause shown. The applicant may file a new application at any time following the expiration of the 120 day period, and an examination may be taken when scheduled by the department in the regular course of business.

(2) In determining good cause, the commissioner shall consider whether the delay to take the examination or the failure to pass the examination within the time period specified in subsection (1) of this section was due to extenuating circumstances beyond the applicant's control.

Section 9[~~10~~]. Validity of Results. Examination results are valid for one (1) year from the date the examination is taken. Application for additional lines of authority or licenses issued as a result of the same examination shall be received by the commissioner within the same one (1) year period. After this period, the applicant shall be retested.

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2019 at 9:00 a.m. at 215 W. Main Street, 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 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. on May 31, 2019. 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, Deputy Commissioner, Policy, 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: This administrative regulation establishes the examination requirements to obtain an agent license for the various lines of insurance, both major and limited lines. Some lines of insurance, referred to as "limited lines" are a narrow form of insurance ancillary to major lines of insurance (i.e., property, casualty, life, health). Agents applying for a major line of authority must perform required pre-licensing education, pass an examination, and complete continuing education courses. Agents applying for limited lines licenses are subject to less stringent requirements due to the limited scale of insurance activity permitted under such license.

(b) The necessity of this administrative regulation: The amendment is necessary to update the limited lines examination requirements to reflect the changes in licenses offered by the Department, and eliminate requirements deemed unnecessary for limited lines travel license applicants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.9-230 permits the commissioner to promulgate regulations establishing requirements, if any, for individuals to obtain a limited lines license. The statute does not mandate any specific pre-licensing course of instruction or examination. Instead, it specifically considers that such requirements are unnecessary for these specific licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation currently establishes the examination process to obtain a major or limited lines license.

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

(a) How the amendment will change this existing administrative regulation: The amended administrative regulation eliminates the examination requirement for three limited lines licenses. First, the department no longer offers a surety limited lines license, so the reference is moot. Second, the department does not have a credit limited lines license examination, so the reference is unnecessary. Lastly, the department reviewed the travel limited lines license examination and found it to be irrelevant to travel insurance and of

little value. Additionally, the department rarely administers the examination. Therefore, the department is eliminating the examination requirement to obtain a travel limited lines license.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to promote clarity in the application of the administrative regulation by eliminating the examination reference for unavailable lines of insurance. Additionally, the deletion of the examination requirement for travel limited lines license will reduce regulatory burdens, promote access to these licenses, and increase the availability of beneficial travel insurance products without sacrificing consumer protection.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment utilizes the discretion provided to the commissioner to determine whether any pre-licensing courses or examinations are necessary to obtain these limited lines licenses.

(d) How the amendment will assist in the effective administration of the statutes: The amendment allows Department staff to focus on the administration of pre-licensing courses and examinations for major lines. The elimination of the travel examination streamlines the application process to obtain a limited license and relies upon companies to educate their agents on this particular form of insurance instead of forcing individuals to pass an examination with little relevance to travel insurance.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will impact the various insurers offering travel insurance by permitting an expansion of individuals able to offer such products. Currently, Kentucky has 27 resident, individual limited lines travel insurance producers and 484 non-resident producers. The Department administered four (4) examinations in the past three (3) years. The removal of the examination will impact all of these current licensees in the event their licenses lapse, so they will not need to take another examination. Additionally, more Kentuckians may apply for this license and make these products available to consumers in need.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Regulated entities will not have to take any action as regulatory hurdles to obtain these particular limited licenses are removed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: The amended administrative regulation will not cost each of the entities anything.

(c) As a result of compliance, what benefits will accrue to the entities: The regulated entities will benefit from a streamlined application process.

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

(a) Initially: The Department does not anticipate any cost to implement this amendment.

(b) On a continuing basis: The Department does not anticipate any continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is considered 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 Department does not anticipate additional fees or funding will be required to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as the requirements apply to all health insurance companies equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.9-230 permits the commissioner to use discretion in determining whether pre-licensing courses and examinations are needed to obtain a limited lines license.

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This administrative regulation will not generate any revenue for state or local government agencies in the first year.

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

(c) How much will it cost to administer this program for the first year? This administrative regulation will not result in any costs for state or local government agencies in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not result in any costs for state or local government agencies 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 (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Not applicable.

PUBLIC PROTECTION CABINET
Department of Insurance
(Amendment)

806 KAR 9:310. Life settlement licenses[~~broker license and notification~~].

RELATES TO: KRS 304.15-020, 304.15-700-304.15-725

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.15-700[~~(2)(a), (b)~~], 304.15-720

NECESSITY, FUNCTION, AND CONFORMITY: [~~EO 2008-507, signed June 6, 2008, created the Department of Insurance, headed by the Commissioner of Insurance.~~] KRS 304.2-110(1) authorizes the Commissioner[~~Executive Director~~] of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code[~~as defined in KRS 304.1-010~~]. KRS 304.15-700(2)(a) requires the commissioner[~~executive director~~] to promulgate administrative regulations to provide for the licensing of life settlement brokers and the termination or revocation of the license. KRS 304.15-720 authorizes the commissioner[~~executive director~~] to promulgate administrative regulations to implement KRS 304.15-700 to 304.15-720. KRS 304.15-700 prohibits any person from[~~and to establish appropriate requirements and fees for a life settlement broker license and for notifying the executive director that an individual licensed as a life insurance agent is~~] acting as a life settlement provider or broker without first obtaining the appropriate license from the Commissioner. This administrative regulation establishes[~~the information to be included in the application for,~~] the requirements and fees for the issuance and continuation of life

settlement provider and broker licenses[~~, and the fees for a viatical settlement broker license and notification~~].

Section 1.[~~Definitions. (1) "Commissioner" means the Commissioner of the Department of Insurance.~~

~~(2) "Department" means the Department of Insurance.~~

~~(3) "life settlement broker" is defined in KRS 304.15-020(8).~~

~~Section 2.~~] Individual Applicant. (1) An individual seeking[~~may be issued~~] a life settlement broker or provider license shall[~~license if the commissioner determines that the applicant~~]:

(a) Be[~~Is~~] at least twenty-one (21) years of age;

(b) Submit either:

1. A completed Form 8301, incorporated by reference in 806 KAR 9:430; or

2. A completed, electronic[~~Has completed a forty (40) hour life settlement prelicensing course of study, which has been approved by the executive director in accordance with 806 KAR 9:001;~~

~~(c) Has passed a life settlement examination in accordance with 806 KAR 9:070;~~

~~(d) Submits:~~

~~1. Electronically, a completed~~] Individual Uniform Application prescribed by the National Association of Insurance Commissioners (NAIC) and available on the National Insurance Producer Registry's (NIPR) Web site: www.NIPR.com;

(c) Remit the appropriate nonrefundable fee:

1. For a life settlement provider license, $500;

2. For a life settlement broker license, $250; and

(d) Have in force[~~or~~

~~2. Form 8301, incorporated by reference in 806 KAR 9:340;~~

~~(e) Submits Form 8301-BGC, incorporated by reference in 806 KAR 9:340;~~

~~(f) Remits the nonrefundable fee of $250;~~

~~(g) Submits Form CPL-01, incorporated by reference in 806 KAR 9:340;~~

~~(h) Provides proof of~~] financial responsibility in the amounts established by[~~in~~] KRS 304.15-700(5).

(2) In addition to the requirements of Section 1(1), an individual seeking a life settlement broker license shall:

(a) Have completed a forty (40) hour life settlement[~~and in accordance with 806 KAR 9:210; and~~

~~(i) If using an assumed name, provides certified copies of certificates required in accordance with KRS 365.015.~~

~~(2) An individual notifying the commissioner that he or she is acting as a viatical settlement broker in accordance with KRS 304.15-700(2)(b) shall:~~

~~(a) Be exempt from the~~] prelicensing course of study approved by the commissioner; and

(b) Have passed a life settlement examination in accordance with 806 KAR 9:070.

Section 2. Exempt individuals. Viatical settlement brokers under KRS 304.15-700(2)(b) shall within thirty (30) days of first acting as a life settlement broker without a license:

(1)[~~required by subsection (1)(b) and the examination required by subsection (1)(c) of this section;~~

~~(b)~~] Submit[~~electronically,~~] a completed electronic Individual Uniform Notification prescribed by the NAIC and available on the NIPR's[~~National Association of Insurance Commissioners and available on the National Insurance Producer Registry's~~] Web site: www.NIPR.com;

(2)[~~(c)~~] Remit the nonrefundable fee of $250; and

(3) Have in force[~~(d) Provide proof of~~] financial responsibility in the amounts established in KRS 304.15-700(2)(d).

Section 3. Background report. Resident individuals seeking licensure under Section 1 or providing notice of exemption under Section 2 shall submit a criminal background report obtained through the Kentucky Administrative Office of the Courts.

Section 4. Continuing Education. (1) An individual licensed as either a life settlement broker or an insurance agent authorized to operate as a life settlement broker shall complete twenty-four (24) hours of continuing education approved by the Commissioner, which shall include a minimum of:

(a) Three (3) hours in life insurance;

(b) Three (3) hours in life settlements; and

(c) Three (3) hours in ethics.

(2) The same hours may be credited towards the individual's continuing education requirements for the life settlement broker license and the applicable agent license, if any.

Section 5. Business Entity Applicant. [~~and in accordance with 806 KAR 9:210; and~~

~~(e) If using an assumed name, provide certified copies of certificates required in accordance with KRS 365.015.~~

~~Section 3. Business Entity Applicant. (1) A business entity may be issued a life settlement broker license if the commissioner determines the applicant has designated only individuals acting for, or authorized to act for, the business entity in accordance with KRS 304.9-133.~~

~~(2)~~] A business entity applying for a life settlement broker or provider license shall:

(1) Submit either:

(a) A completed Form 8301 - BE, incorporated by reference in 806 KAR 9:340; or

(b) A completed, electronic Uniform Business Entity Application prescribed by the NAIC and available on the NIPR's[~~(a) Submit:~~

~~1. Electronically, a Uniform Business Entity Application prescribed by the National Association of Insurance Commissioners and available on the National Insurance Producer Registry's~~] Web site: www.NIPR.com;

(2) Remit the appropriate nonrefundable fee:

(a) For a life settlement provider license, $1,500;

(b) For a life settlement broker license, $750; and

(3) Have in force financial responsibility in the amounts established in KRS 304.15-700(5)[~~or~~

~~2. Form 8301 - BE, incorporated by reference in 806 KAR 9:340;~~

~~(b) Remit the nonrefundable fee of $750;~~

~~(c) Provide proof of financial responsibility in the amounts established in KRS 304.15-700(5) and in accordance with 806 KAR 9:210; and~~

~~(d) Provide the following documentation, as applicable:~~

~~1. Certificate of authority from the Kentucky Secretary of State;~~

~~2. Documentation supporting the applicant's answers on the application; and~~

~~3. If using an assumed name, certified copies of certificates required in accordance with KRS 365.015~~].

Section 6[4]. Renewal and Continuation of License. (1) Each life settlement[~~broker~~] license shall continue in force and renew in accordance with KRS 304.9-260. The renewal fee shall be nonrefundable and in the amount as follows:

(a) $250 for an individual broker licensee;[~~or~~]

(b) $500 for an individual provider licensee;

(c) $750 for a business entity broker licensee; and

(d) $1500 for a business entity provider licensee.

(2) A[~~licensed~~] life settlement broker or provider licensee or[~~and~~] an insurance agent authorized to operate as a life settlement broker[~~ in accordance with KRS 304.15-700(2)(b) and Section 2(2) of this administrative regulation~~] shall notify the Department [~~of Insurance~~] in writing within thirty (30) days of any change to the information in the application, notification, or supporting[~~in the~~] documents submitted seeking licensure or providing notice of exemption[~~required to be submitted in accordance with Section 2 or 3 of this administrative regulation.~~

~~Section 5. Continuing Education. (1) An individual licensed as a life settlement broker and an insurance agent authorized to operate as a life settlement broker in accordance with KRS 304.15-700(2)(b) and Section 2(2) of this administrative regulation shall complete twenty-four (24) hours of office-approved continuing education in accordance with KRS 304.9-295.~~

~~(2) The required continuing education hours shall include a~~

~~minimum of:~~

~~(a) Three (3) hours in life insurance;~~

~~(b) Three (3) hours in life settlements; and~~

~~(c) Three (3) hours in ethics.~~

~~(3) The same hours may be credited towards the individual's continuing education requirements for the life settlement broker license and the applicable agent license, if any~~].

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on May 24, 2019 at 215 W. Main St., Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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 O'Connor, Deputy Commissioner, 215 W. Main St., Frankfort, Kentucky 40602, phone 502-564-6026, fax 502-564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the process for licensure of individual and business entity life settlement providers and brokers while clarifying the exemption for individuals already licensed as life agents in the Commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to satisfy the requirements in KRS 304.15-700 that the Commissioner of Insurance promulgate administrative regulations to provide for the licensing of life settlement providers and brokers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.15-700 requires that the Commissioner of Insurance promulgate administrative regulations to provide for the licensing of life settlement providers and brokers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides a clear process for licensure and notice by exempt individuals.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates requirements for life settlement broker licensure for ease of use, eliminating several previously required submissions the Department no longer wishes to require. For administrative efficiency, the amendment also incorporates necessary substantive provisions previously found in 806 KAR 9:320 governing life settlement providers, which is being concurrently repealed.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update provisions and facilitate licensure for life settlement brokers, providers, and current life insurance agents wishing to act in such capacity.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 304.700, which requires that the Commissioner of Insurance promulgate administrative regulations to provide for the licensing of life settlement providers and brokers.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation provides straightforward requirements and a clear process for licensure and notice by exempt individuals.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals and business entities interested in becoming life settlement providers or brokers will be affected; licensed life insurance agents will be affected.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Compliance burdens will be reduced by this amendment because the Department is requiring less documentation than under the previous regulatory scheme.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no additional cost to regulated entities to comply with this amendment to the administrative regulation; fees remain the same.

(c) As a result of compliance, what benefits will accrue to the entities: Compliance burdens will be reduced by this amendment because the Department is requiring less documentation than under the previous regulatory scheme.

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

(a) Initially: There will be no cost to the administrative body to implement this amendment.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No new funding is necessary for the implementation and enforcement of this amendment; the Department of Insurance Division of Agent Licensing already carries out the substantive provisions of 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 new funding or modification of fees is necessary for the implementation and enforcement of this amendment; the Department of Insurance Division of Agent Licensing already carries out the substantive provisions of the administrative regulation.

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

(9) TIERING: Is tiering applied? Yes. Tiering is applied because individual applicants, business entity applicants, and life insurance agent license holders are all treated differently. Individual applicants and life insurance agent license holders are required to pay nonrefundable fees of $250 or $500, while business entities are required to pay nonrefundable fees of $750 or $1500 with their application for a license to engage in similar activity. This arrangement is not new to this amendment, but exists in the current 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? This administrative regulation will affect the Department of Insurance.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110(1), 304.15-700, 304.15-720

(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. If specific dollar estimates cannot be determined, provide a brief

narrative to explain the fiscal impact 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 amendments to this administrative regulation will not generate any new 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 amendments to this administrative regulation will not generate any new revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There is no cost to administer the amendments to the administrative regulations for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no cost to administer the amendments to the administrative regulations 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: The fees for life settlement licenses will remain the same.

ENERGY AND ENVIRONMENT CABINET
Public Service Commission
(Amendment)

807 KAR 5:056. Fuel adjustment clause.

RELATES TO: KRS Chapter 278

STATUTORY AUTHORITY: KRS 278.040(3)[~~278.030(1)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) provides that the Public Service Commission may promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.030(1) provides that all rates received by an electric utility subject to the jurisdiction of the Public Service Commission shall be fair, just, and reasonable. KRS 278.030(2) provides that every utility shall furnish adequate, efficient, and reasonable service. This administrative regulation prescribes the requirements with respect to the implementation of automatic fuel adjustment clauses by which electric utilities may immediately recover increases in fuel costs subjected[~~subject~~] to later scrutiny by the Public Service Commission.

Section 1. Fuel Adjustment Clause. Fuel adjustment clauses which are not in conformity with the principles set out below are not in the public interest and may result in suspension of those parts of such rate schedules:

(1) The fuel adjustment clause shall provide for periodic adjustment per KWH of sales equal to the difference between the fuel costs per KWH sale in the base period and in the current period according to the following formula:

$$\text{Adjustment Factor} = \frac{F(m)}{S(m)} - \frac{F(b)}{S(b)}$$

Where F(b) is the cost[~~expense~~] of[~~fossil~~] fuel in the base period, F(m) is the cost of fuel in the current period, S(b) is sales in the base period, and S(m) is sales in the current period[~~(b) and Current (m) periods; and S is sales in the base (b) and current (m) periods~~], all as defined below.

(2) F(b)[~~B~~]/S(b)[~~B~~] shall be so determined that on the effective date of the commission's approval of the utility's application of the formula, the resultant adjustment will be equal to zero.

(3) Fuel costs (F) shall be the most recent actual monthly cost, based on weighted average inventory costing, of:

(a) Fossil fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants, plus the cost of fuel which would have been used in plants suffering forced generation or transmission outages, but less the cost of fuel related to substitute generation; plus

(b) The actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than identified in paragraph (c) of this subsection, but excluding the cost of fuel related to purchases to substitute for the forced outages; plus

(c) The net energy cost of energy purchases, irrespective of the designation assigned to such transaction and exclusive of capacity or demand charges,[(~~irrespective of the designation assigned to such transaction~~)] when such energy is purchased on an economic dispatch basis. Included therein may be such costs as the charges for economy energy purchases and the charges as a result of scheduled outage, all such kinds of energy being purchased by the buyer to substitute for its own higher cost energy; and less

(d) The cost of fossil fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.[~~(e) All fuel costs shall be based on weighted average inventory costing.~~]

(4) Forced outages are all nonscheduled losses of generation or transmission which require substitute power for a continuous period in excess of six (6) hours. Where forced outages are not[~~as~~] the[~~a~~] result of faulty equipment, faulty manufacture, faulty design, faulty installations, faulty operation, or faulty maintenance, but are Acts of God, riot, insurrection or acts of the public enemy, then the utility may, upon proper showing, with the approval of the commission, include the fuel cost of substitute energy in the adjustment.[~~Until such approval is obtained,~~] In making the calculations of fuel cost (F) in subsection (3)(a) and (b) of this section, the forced outage costs to be subtracted shall be no less than the fuel cost related to the lost generation until such approval is obtained.

(5) Sales (S) shall be all KWH's sold, excluding intersystem sales. Utility used energy shall not be excluded in the determination of sales (S). Where, for any reason, billed system sales cannot be coordinated with fuel costs for the billing period, sales may be equated to[~~the sum of~~]:

(a) Generation; plus

(b) Purchases; plus

(c) Interchange-in; less

(d) Energy associated with pumped storage operations; less

(e) Intersystem sales referred to in subsection (3)(d) above; less

(f) Total system losses.[~~Utility used energy shall not be excluded in the determination of sales (S).~~]

(6) The cost of fossil fuel shall only include the cost of the fuel itself and necessary charges for transportation of the fuel from the point of acquisition to the unloading point, as listed in Account 151 of FERC Uniform System of Accounts for Public Utilities and Licensees,[~~include no items other than the invoice price of fuel~~]less any cash or other discounts.[~~The invoice price of fuel includes the cost of the fuel itself and necessary charges for transportation of the fuel from the point of acquisition to the unloading point, as listed in Account 151 of FERC Uniform System of Accounts for Public Utilities and Licensees.~~]

Section 2. Filing Requirements. (1)[(~~7) At the time the fuel clause is initially filed,~~] If a utility initially proposes a fuel adjustment clause or proposes to reset the base period fuel costs used in a fuel adjustment clause, the utility shall submit copies of each fossil fuel purchase contract not otherwise on file with the commission and all other agreements, options, amendments, modifications, and[~~or~~] similar such documents[~~, and all amendments and modifications thereof~~] related to the procurement of fuel supply[~~and~~] or purchased power in addition to any other documents and information required by 807 KAR 5:001 and 807 KAR 5:011.[~~Incorporation by reference is permissible.~~]

(2) Any changes in the contracts or other documents filed pursuant to subsection (1) of this section, including price escalations, and[~~or~~] any new agreements entered into after the initial submission, shall be submitted at the time they are entered into.

(3) Where fuel is purchased from utility-owned or controlled sources, or the contract contains a price escalation clause, those

facts shall be noted, and the utility shall explain and justify them in writing.[~~Fuel charges which are unreasonable shall be disallowed and may result in the suspension of the fuel adjustment clause. The commission on its own motion may investigate any aspect of fuel purchasing activities covered by this administrative regulation.~~

~~(8) Any tariff filing which contains a fuel clause shall conform that clause with this administrative regulation within three (3) months of the effective date of this administrative regulation. The tariff filing shall contain a description of the fuel clause with detailed cost support.~~]

(4)[~~(9)~~]The monthly fuel adjustment shall be filed with the commission ten (10) days before it is scheduled to go into effect, along with all the necessary supporting data to justify the amount of the adjustment[~~which shall include data and information as may be required by the commission~~].

(5)[~~(10)~~]Copies of all documents required to be filed with the commission under this administrative regulation shall be open and made available for public inspection at the office of the Public Service Commission pursuant to the provisions of KRS 61.870 to 61.884.

Section 3. Review of Fuel Adjustment Clauses. (1) Fuel charges which are unreasonable shall be disallowed and may result in the suspension of the fuel adjustment clause.

(2) The commission on its own motion may investigate any aspect of fuel purchasing activities covered by this administrative regulation.

(3)[~~(11)~~] At six (6) month intervals, the commission will conduct a formal review and may conduct public hearings on a utility's past fuel adjustments. The commission will order a utility to charge off and amortize, by means of a temporary decrease of rates, any adjustments it finds unjustified due to improper calculation or application of the charge or improper fuel procurement practices.

(4)[~~(12)~~] Every two (2) years following the initial effective date of each utility's fuel clause, the commission will conduct a formal[~~in a public hearing will~~] review and evaluate past operations of the clause, disallow improper expenses and, to the extent appropriate, reestablish the fuel clause charge in accordance with Section 1 [~~subsection~~] (2) of this administrative regulation[~~section~~]. The commission may conduct a public hearing if it finds that a hearing is necessary for the protection of a substantial interest or is in the public interest.

(5) Beginning three (3) months after the effective date of this regulation, the commission shall, in determining the reasonableness of fuel costs in procurement contracts and fuel procurement practices, evaluate the reasonableness of fuel costs in contracts and competing bids based on the cost of the fuel less any tax collected under KRS 143.020.

This is to certify that the Public Service Commission approved promulgation of this administrative, pursuant to KRS 278.040(3), on April 15, 2019.

GWEN R. PINSON, Executive Director
MICHAEL J. SCHMITT, Chairman

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 30, 2019, at 9:00 a.m. Eastern Standard Time at the Kentucky Public Service Commission, 211 Sower Boulevard, 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 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, 2019. Written notification of intent to be heard at the public hearing and written comments on the proposed amendment should be sent or delivered to the contact person listed below.

CONTACT PERSON: John E.B. Pinney, Acting General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-3940, fax (502) 564-7279, email Jeb.Pinney@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John E.B. Pinney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation prescribes the requirements with respect to the implementation of automatic fuel adjustment clauses by which electric utilities may immediately recover increases in fuel costs subject to later scrutiny by the Kentucky Public Service Commission.

(b) The necessity of this administrative regulation: This regulation promotes reliable electric service at reasonable rates by creating a mechanism by which fluctuations in fuel costs, which are a significant and volatile cost in electric generation, may be reflected in customer bills in a timely manner, subject to commission oversight, without a more burdensome general rate adjustment proceeding.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 278.040(3) provides that the commission may promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.030(1) provides that all rates received by an electric utility subject to the jurisdiction of the commission shall be fair, just, and reasonable. KRS 278.030(2) provides that every utility shall furnish adequate, efficient, and reasonable service. Administrative regulation number, 807 KAR 5:056, limits regulatory lag by prescribing a mechanism by which fluctuations in fuel prices, which are a significant and volatile cost in electric generation, may be reflected in customer bills in a timely manner, subject to commission oversight, without a more burdensome general rate adjustment proceeding.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation limits regulatory lag by prescribing a mechanism by which fluctuations in fuel prices, which are a significant and volatile cost in electric generation, may be reflected in customer bills in a timely manner, subject to commission oversight, without a more burdensome general rate adjustment proceeding.

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

(a) How the amendment will change this existing administrative regulation: The amendment to the regulation clarifies potentially ambiguous language, removes superfluous language, and otherwise seeks to bring the language of the regulation in conformity with the drafting requirements of KRS 13A.222. The amendment removes the requirements in Section 1(11) and Section 1(12) that the commission "shall" conduct a public hearing at 6 month and 2 year intervals, respectively, and instead states that the commission "may" conduct a public hearing. The amendment provides that in reviewing the reasonableness of the cost of fuel in procurement contract and procurement practices that the commission will look at the cost of fuel in the contracts and competing bids based on the cost of the fuel less any tax collected under KRS 143.020.

(b) The necessity of the amendment to this administrative regulation: The amendment is being made to conform the language of the regulation with KRS 13A.222 and to ease the regulatory burden on parties practicing before the commission by making the regulation easier to understand. The amendment making the hearings permissive instead of mandatory is being made because the commission has found that while the hearings are necessary in some cases that they are often not necessary to adequately review utilities' fuel adjustment clauses, but under the current regulation, the commission is required to conduct the hearings even if they are not necessary. The amendment removing the tax collected under KRS 143.020 is being made to ensure that the reasonableness of fuel costs are reviewed on a more level

basis regardless of the state of origin.

(c) How the amendment conforms to the content of the authorizing statutes: Administrative regulation number, 807 KAR 5:056, continues to limit regulatory lag by prescribing a mechanism by which fluctuations in fuel prices, whether up or down, may be reflected in customer bills in a timely manner, subject to commission oversight, without a more burdensome general rate adjustment proceeding. The amendments clarify the application of 807 KAR 5:056, remove unnecessary regulatory burdens in its application, and ensure customers continue to receive adequate, efficient, and reasonable service through the utilities' timely recovery of volatile costs for fuel from diverse sources.

(d) How the amendment will assist in the effective administration of the statutes: The amendments clarify the application of 807 KAR 5:056, remove unnecessary regulatory burdens in its application, and ensure customers continue to receive adequate, efficient, and reasonable service through the utilities' timely recovery of volatile costs for fuel from diverse sources.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The regulation will affect regulated electric generation and distribution utilities in the Commonwealth of which there are approximately 25.

(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 will allow the commission to review fuel adjustment clauses without a hearing and should thereby ease the burden on regulated entities. The commission does not anticipate the regulated entities having to take additional actions to comply with the amendments.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Zero Dollars; no fiscal impact.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment clarifies potential ambiguous provisions in the regulation and thereby should ease compliance, and it eliminates the requirement that hearings be conducted, which should ease the burden on the regulated entities while allowing the commission to maintain its oversight of fuel adjustment clauses.

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

(a) Initially: Zero Dollars; no fiscal impact.

(b) On a continuing basis: Zero Dollars; no fiscal impact.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission does not anticipate this amendment increasing its enforcement cost. The amendment should, if anything, nominally reduce the number of hearings the commission conducts each year. The commission currently funds enforcement of this regulation through its general operating budget funded through annual assessments paid by regulated utilities pursuant to KRS 278.130, *et. seq*., and this amendment has no effect on that funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fiscal impact.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees are established and existing fees will not be affected.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulations, because it would not be appropriate. This regulation simply creates a mechanism by which fluctuations in fuel costs incurred by each utility may be passed through to customer bills in a timely manner. Although the utilities to which this regulation applies vary in size and location, they function in a similar manner. Moreover, the amounts that are flowed through the fuel adjustment clauses, whether they result in increases or decreases in customer bills, will vary based on the size of the utility. The commission's review of the fuel adjustment clauses of smaller utilities will be less burdensome by virtue of the fact that there is less to review. However, while the total amounts flowed through the fuel adjustment clauses vary based on the size of the utility, the fuel costs will make up approximately the same percentage of the utilities expense and their customer bills regardless of the size of the utility, so there would be no basis for reviewing the amounts passed through fuel adjustment clauses more or less frequently based on the size of the utility.

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? No impact.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 278.040

(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. Zero Dollars; no fiscal impact.

(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? Zero Dollars; no fiscal impact.

(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? Zero Dollars; no fiscal impact.

(c) How much will it cost to administer this program for the first year? Zero Dollars; no fiscal impact.

(d) How much will it cost to administer this program for subsequent years? Zero Dollars; no fiscal impact.

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: None.

(2) State compliance standards: N/A

(3) Minimum or uniform standards contained in the federal mandate: N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

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.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 to promulgate a mandatory uniform state building code that establishes standards for the construction of all buildings in the state. This administrative regulation establishes the Kentucky Building Code's general

provisions.

Section 1. Definitions. (1) "Building" is defined by KRS 198B.010(4).

(2) "Department" is defined by KRS 198B.010(11).

(3) "Industrialized building system" or "building system" is defined by KRS 198B.010(16).

(4) "Manufactured home" is defined by KRS 227.550(7).

(5) "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) "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) "Two (2) family dwelling" means a building containing not more than two (2) dwelling units that are connected.

Section 2. Building Code. (1) The 2015 International Building Code shall be the mandatory state building code for all buildings constructed in Kentucky, except that:

(a) The Kentucky amendments in the 2018 Kentucky Building Code shall supersede any conflicting provision in the 2015 International Building Code;

(b) One (1) family dwellings, 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.

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. The cost per square foot of each occupancy type as listed in Table 121.3.1 in subsection (3) of this section; and

2. The square footage of 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 Table 121.3.1 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

(4) Additions to existing buildings.

(a) Plan review fees for additions to existing buildings shall be calculated by multiplying the cost per square foot of the occupancy type listed in Table 121.3.1 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 Table 121.3.1 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 multiplying the:

1. Cost for the alterations or repairs by 0.0030; or

2. 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 Table 121.3.9 in this paragraph;

NUMBER OF SPRINKLERS	FEE
Four (4) – twenty-five (25)	$150
Twenty-six – 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

(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 subclause 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; and

(i) The flammable, combustible liquids or gases, and hazardous materials plan review fee shall be $100 for the first tank, plus fifty (50) dollars for each additional tank and $100 per piping system including valves, fill pipes, vents, leak detection, spill and overfill detection, cathodic protection, or associated components.

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) "2015 International Building Code", International Code Council, Inc.; and

(b) "2018 Kentucky Building Code, Second[~~First~~] Edition, April 2019[~~June 2018~~].

(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. and is available online at http://dhbc.ky.gov/Pages/default.aspx.

STEVEN A. MILBY, Commissioner
K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 11, 2019

FILED WITH LRC: April 12, 2019 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2019, at 10:00 a.m., EDT, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2019. 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 Startsman, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412; phone 502-573-0365, fax 502-573-1057, email david.startsman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Startsman

(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 most up to date version of the Kentucky Building Code as required pursuant to KRS 198B.050.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation uses 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: This administrative regulation establishes standards authorized by KRS 198B.050 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: This amendment makes corrections to and updates the first edition of the 2018 Kentucky Building Code, which is incorporated by reference. The amendment makes the following changes:

Corrects grammatical and technical issues throughout the 2018 KBC.

Amends Section 120.1 to update the effective date for requiring plan compliance with the 2018 KBC.

Amends Section 122.3 to clarify applicable statutes and administrative regulations.

Amends the definition of "Farm" in Section 201 for consistency with the definition in the 2018 Kentucky Residential Code.

Amends the definition of "Manufactured Home" in Section 201 for consistency with the definition in KRS 227.550(6).

Corrects references in Sections 307.1.3 and 307.1.4 to accurately reflect the amended sections of the 2015 International Building Code.

Deletes Section 430.12 because the section is no longer necessary. The section numbering was updated to reflect this deletion.

Adds exceptions to Section 910.2 consistent with the 2013 Kentucky Building Code.

Deletes Section 1008.2.2 because it is not applicable to the 2018 KBC.

Amends the variable in Section 1609 to reference the correct variable for the wind speed conversion equation.

Renames Table 603.4 to Table 2081.1.1.6 to reduce confusion in determining what chapter the table is located.

Amends Section 3011.3 for consistency with 815 KAR 4:027.

(b) The necessity of the amendment to this administrative regulation: The administrative regulation amendment is necessary to implement code changes to the incorporated material proposed by the Department of Housing, Buildings and Construction, which have been reviewed and commented on by the Housing, Buildings and Construction Advisory Committee during the March 26, 2019 meeting.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.050 mandates the Department of Housing, Buildings and Construction establish a uniform Kentucky Building Code. This administrative regulation incorporates the 2018 Kentucky Residential Code, which is corrected and updated through the amendment.

(d) How the amendment will assist in the effective administration of the statutes: These amendments to the Kentucky Building Code will enhance public safety and allow the construction industry to use current technologies, methods, and materials.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All construction projects subject to the Kentucky Building Code will be affected by the amendments to this administrative regulation. Architects, engineers, contractors, project managers, businesses, local governments, and Department personnel 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 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 will incur a minor expense if they choose to obtain a new physical codebooks.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits to regulated entities include enhanced safety features, flexibility in building design, and increased clarity of construction standards.

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

(a) Initially: There are no anticipated additional costs to administer this amendment.

(b) On a continuing basis: There are no anticipated additional costs to administer this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of 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: The amendment does not change previous established fees.

(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 will be affected.

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 required 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 revenue for the state or local government in the first year.

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

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment in the first year.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(Amendment)

815 KAR 7:125. Kentucky Residential Code.

RELATES TO: KRS 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.260, 198B.990

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) and 198B.050 require the department to promulgate a mandatory uniform state building code that establishes standards for the construction of all buildings in the state. This administrative regulation establishes the basic mandatory uniform statewide code provisions relating to construction of one (1) and two (2) family dwellings and townhouses.

Section 1. Definitions. (1) "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 any other unit or building.

(2) "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.

(3) "Two (2) family dwelling" means a building containing not more than two (2) dwelling units that are connected.

Section 2. Residential Code. (1) Except as provided in subsection (2) of this section, the 2015 International Residential Code for One (1) and Two (2) Family Dwellings (IRC) shall be the mandatory state residential building code for all single-family dwellings, two (2) family dwellings, and townhouses constructed in Kentucky, except that the Kentucky amendments in the 2018 Kentucky Residential Code shall supersede any conflicting provision in the 2015 IRC[~~International Residential Code for One (1) and Two (2) Family Dwellings~~].

(2) Exceptions.

(a) Permits, inspections, and certificates of occupancy shall not be required for a single-family dwelling unless required by [~~a~~] local ordinance.

(b) All residential occupancies that are not single-family dwellings, two (2) family dwellings, or townhouses shall comply with the 2015 International Building Code[~~for One (1) and Two (2) Family Dwellings~~] and the 2018 Kentucky Building Code.

(3) Plans for single-family dwellings, two (2) family dwellings, and townhouses shall be designed and submitted to conform to this administrative regulation.

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

(a) "2015 International Residential Code for One (1) and Two (2) Family Dwellings," International Code Council, Inc.; and

(b) "2018 Kentucky Residential Code," Second[~~First~~] Edition, April 2019[~~June 2018~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings[~~,~~] and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at http://dhbc.ky.gov/Pages/default.aspx.

K. GAIL RUSSELL, Secretary

STEVEN A. MILBY, Commissioner

APPROVED BY AGENCY: April 11, 2019

FILED WITH LRC: April 12, 2019 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on May 22, 2019 at Department of Housing, Buildings and Construction 101 Sea Hero Road, Suite 100, 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 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. on May 31, 2019. 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: David R. Startsman, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601, phone 502-573-0365, fax 502-573-1057, email david.startsman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David R. Startsman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the uniform Kentucky Residential Code required by KRS 198B.050.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to adopt the Kentucky Residential Code required by KRS 198B.050.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.040(7) and 198B.050 require the Department of Housing, Building, and Construction to adopt and promulgate a mandatory Uniform State Building Code that establishes standards for the construction of all buildings, as defined in KRS 198B.010, in the state. This administrative regulation uses the International Residential Code as the basis for construction standards and incorporates amendments unique to Kentucky after due consideration of equivalent safety measures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes standards authorized by the statute for the enforcement of the residential code, incorporating all applicable laws into its processes.

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

(a) How the amendment will change this existing administrative regulation: This amendment makes corrections to and updates the first edition of the 2018 Kentucky Residential Code, which is incorporated by reference. The amendment makes the following changes:

1. Corrects grammatical and technical issues throughout the Kentucky Residential Code ("KRC").

2. Rewords Sections R101.6, R101.7, and R101.8 to refer to the applicable statutes and administrative regulations to eliminate any confusion between the KRC and the applicable law.

3. Renames the heading for Section R103 "Building Inspection Program" and deletes the heading "Department of Building Safety."

4. Amends Section R112.3.8 to require a majority vote of local appeals board members instead of just three members.

5. Amends Section R116 to amend dates that are no longer applicable

6. Adds the definition for "KAR" in Section R202.

7. Amends Table R302.1 (1) to include 'greater than or equal to' symbols instead of just the 'greater than' symbol.

8. Deletes Section R307.3 that mandated blocking around toilets, baths, and shower spaces.

9. Removes confusing language in Section R311.2 that required interior egress doors have a net opening of 32 inches.

10. Clarifies that Sections R312.2.1 and R312.2.2 are deleted from the 2015 International Residential Code.

11. Corrects internal cross-references in Section R328.5, Section R328.6, and R328.7.

12. Amends Table R404.1.2 to add a footnote in the table for a wall that is nine (9) feet high with a backfill height of eight (8) feet and a minimal wall thickness of 5 @ 37.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is amended to implement code changes proposed by the Department of Housing, Buildings and Construction, which were reviewed and commented on by the Housing, Buildings and Construction Advisory Committee during the March 26, 2019 meeting.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.050 requires the Department of Housing, Buildings and Construction to adopt and promulgate a uniform Kentucky Building Code. This administrative regulation incorporates the 2018 Kentucky Residential Code, which is corrected and updated through the amendment.

(d) How the amendment will assist in the effective administration of the statutes: These amendments and updates to the incorporated Kentucky Residential Code will enhance public safety and allow the construction industry to better use current technologies, methods, and materials.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All construction projects subject to the Kentucky Residential Code will be affected by the amendments to this administrative regulation. Architects, engineers, contractors, project managers, businesses, local governments, and Department personnel will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: The identified entities must adjust designs, plans, and materials to comply fully with all amendments to the Kentucky Residential code.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Affected entities may experience slight fluctuations in expenses as they adjust designs, plans, and materials used to comply with the updated Residential Code. Some amendments will result in higher costs, while others will reduce costs for all entities involved in residential construction.

(c) As a result of compliance, what benefits will accrue to the entities: Benefits to regulated entities and consumers include enhanced safety features, flexibility in building design, and increased clarity of construction standards.

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

(a) Initially: There are no anticipated additional costs to administer this regulatory amendment.

(b) On a continuing basis: There are no anticipated additional costs to administer this regulatory amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this amendment is anticipated to result in no additional costs to the agency. Any agency costs resulting from this administrative amendment will be met with existing agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied as all builders, contractors, local governments, and owners will be subject to the same 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 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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This amendment is not anticipated to generate additional revenue 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 revenue 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: None

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Epidemiology and Health Planning
(Amendment)

902 KAR 2:070. Rabies control.

RELATES TO: KRS 258.005, 258.015, 258.035, 258.043,[-] 258.085, 258.990(1), (2)

STATUTORY AUTHORITY: KRS 194.050(1), 258.015, 258.043[211.090, 258.035], 258.075[, EO 2004-726]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires 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 258.075 authorizes the secretary to administer the provisions of KRS 258.005 to 258.087 through the local health departments and to promulgate administrative regulations necessary to effectuate[EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health and Family Services and placed the Department for Public Health under the Cabinet for Health and Family Services. KRS 258.005 to 258.085 and 258.990(1) and (2) authorize the cabinet to administer] a statewide rabies control program. KRS 258.043 authorizes a local health department to sponsor a mass rabies immunization clinic and to establish a reasonable fee to be charged to the owner of each dog, cat, or ferret vaccinated to help defray the cost of the clinic. This administrative regulation establishes uniform procedures for the diagnosis, prevention, and control of rabies, and for operating a mass rabies clinic.

Section 1. Brands and Types of Approved Vaccine. The Cabinet for Health and Family Services hereby approves all brands and types of antirabies vaccine approved by the United States Department of Agriculture administered in accordance with the manufacturers' instructions[; except only vaccines certified to induce at least three (3) year immunity shall be used in mass immunization clinics sponsored by local health departments].

Section 2. Vaccination Schedule. The vaccination schedule for all dogs, cats, and ferrets shall be as established in this section.[follows:]

(1)(a) Except as provided by paragraph (b) of this subsection, all dogs, cats, and ferrets shall be vaccinated against rabies by a veterinarian holding a valid Kentucky license.

(b) An individual permitted under Section 7 of this administrative regulation may vaccinate dogs owned by that individual[four (4) months of age and older shall be vaccinated against rabies].

(2) A dog, cat, or ferret[Dogs, cats, and ferrets] initially vaccinated shall be revaccinated one (1) year after the initial vaccination regardless of the type of vaccine used or age of the animal at the time of vaccination.

(3) Thereafter the period of time required for revaccination shall be dependent upon the type of vaccine administered and the expiration date as documented on the vaccination certificate.

(4)[The date of expiration shall be indicated on the vaccination certificate.] The current revaccination recommendations of the National Association of State Public Health Veterinarians, Inc. may be utilized in determining expiration dates of vaccines.

Section 3. Vaccination Certificates. A vaccination certificate[certificates] shall provide the information found on the National Association of State Public Health Veterinarians NASPHV Form [#]51, Rabies Vaccination Certificate. Certificate information shall either[may] be:

(1) Handwritten on a reproduction of the NASPHV Form [#]51; or

(2)[it may be] Computer generated.

Section 4. Dogs, Cats, and Ferrets Brought into State. (1) Each dog, cat, or ferret[All dogs, cats, and ferrets] brought into Kentucky shall be vaccinated in accordance with KRS 258.035.

(2)[against rabies and have a currently valid rabies vaccination certificate.] Reciprocity with other states shall be[is] granted if the vaccine is U.S. Department of Agriculture approved and administered by a veterinarian licensed in that state.

Section 5. Animals Suspected of Being Infected by Rabies. (1) An animal suspected of being infected by rabies shall be quarantined in accordance with KRS 258.085.

(2) Except as provided by subsection (3) of this section, an animal ordered for quarantine in accordance with KRS 258.085(1)(a) shall be quarantined in a manner that limits the animal's exposure to humans or other animals.

(3) The owner of an animal ordered for quarantine in accordance with KRS 258.085(1)(a)1. or 2. may choose to isolate the animal in his or her home unless it is not feasible to do so.

(4) An owner refusing to submit an animal suspected of being rabid for quarantine or agreeing to isolate the animal in his or her home shall be notified of the liability for any rabies post exposure treatment that may be necessary.

(5)[Destroying an Animal Exhibiting Positive Signs of Rabies.] If a dog, cat, or ferret is ordered to be destroyed and tested for rabies pursuant to KRS 258.085(1)(b), it shall be killed in a manner as to preserve the brain intact. The animal shall not be shot or clubbed in the head. A wild animal[animals] suspected of rabies shall be euthanized[sacrificed] and its head[their heads] submitted to the laboratory immediately.

Section 6. Sending Heads of Ownerless Animals to the Laboratory. If the ownership of a suspected rabid [rabies suspect] animal is unknown, the expense of forwarding the head of the animal to the laboratory shall be borne by the local health department.

Section 7. Rabies Vaccination Permits for Owners of Dogs, Cats, or Ferrets. (1) The Cabinet for Health and Family Services shall issue a permit to an owner of a dog[permits to owners of dogs] to vaccinate a dog[dogs] owned by that individual[them] upon satisfactory passage of an examination prescribed by the cabinet.

(2) An individual seeking an initial permit to vaccinate a dog owned by that individual shall:

(a) Register with the state public health veterinarian by September 30;

(b) Attend the instructional course on rabies, epidemiology,

laws, and vaccine administration; and

(c) Pass the written examination with a score of seventy (70) percent or higher[~~Current permit holders may renew their permit annually if initially renewed by December 31, 2004~~].

(3) The course required by subsection (2)(b) of this section shall[~~New permit holders shall pass a written examination that shall be administered immediately following an instructional course on rabies laws and vaccine administration. This course and examination will~~] be provided annually in Frankfort at no charge to the participant.

(4) The Cabinet for Health and Family Services shall forthwith revoke any permit issued under this administrative regulation upon finding that the permittee had vaccinated a dog[~~dogs~~] not owned by the permittee[~~him~~].

(5) A permit holder shall renew the permit between January 1 and February 28[~~Permits issued under this administrative regulation may be renewed~~] each year unless the permit has been suspended, revoked, or cancelled.

(b) A permit shall be renewed by:

1. Returning the Renew Qualified Person Form provided with the certificate of approval to administer a rabies vaccination; or

2. Contacting the state public health veterinarian by phone or email to request renewal.

(c) Failure to renew between January 1 and February 28 of each year shall result in permit cancellation.

Section 8. Local Health Department Operating a Mass Rabies Vaccination Clinic. (1) A local health department may sponsor a countywide rabies vaccination clinic per year for the purpose of vaccinating dogs, cats, and ferrets.

(2) At least one (1) Kentucky-licensed veterinarian shall be available on-site during the rabies clinic to:

(a) Provide the initial vaccine to a dog, cat, or ferret in accordance with Section 2 of this administrative regulation;

(b) Provide a three (3) year vaccine booster to an animal with proof of previous rabies vaccination; and

(c) Be available to provide medical care if an adverse vaccine event occurs.

(3) Only vaccines certified to induce at least three (3) year immunity shall be used in a mass immunization clinic sponsored by a local health department.

(4) An owner shall not be charged more than ten (10) dollars for each vaccination given.

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

(a) ["]National Association of State Public Health Veterinarians, NASPHV Form [#]51, "Rabies Vaccination Certificate," 2007; and

(b) "Renew Qualified Person Form," 3/2019[~~, (2004)" is incorporated by reference~~].

(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, 8:00 a.m. to 4:30 p.m.

(3) The NASPHV Form 51 is also available online from the Centers for Disease Control and Prevention at https://www.cdc.gov/rabies/resources/publications/.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April12, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov, and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a statewide rabies control program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the prevention and control of the spread of rabies throughout the state.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 258.015 requires every owner of a dog, cat, or ferret to have the animal vaccinated against rabies and to receive a certificate of the vaccination. KRS 258.043 allows local health departments (LHD) to sponsor mass rabies immunization clinics and to charge the owner of the animal being vaccinated a reasonable fee to help defray the cost of the clinic.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation helps to ensure all domestic animals are properly vaccinated against rabies, and helps to ensure the safe handling of an animal carcass when the animal is suspected of being infected with rabies.

(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 the operating procedures for an LHD to operate a countywide mass rabies vaccination program, and sets a reasonable fee to be charged each owner of a dog, cat, or ferret for each vaccination provided. This amendment clarifies the quarantine procedures when a dog, cat, or ferret is suspected of having rabies and updates the vaccination certificate incorporated by reference to the current version of the certificate form being used by all veterinarians at this time.

(b) The necessity of the amendment to this administrative regulation: House Bill 327, enacted during the 2018 legislative session, amended KRS 258.043 to remove the fee associated with a rabies vaccination given during an LHD sponsored immunization clinic. This amendment is necessary to set a standard fee to be charged an owner who chooses to have their dog, cat, or ferret vaccinated through an LHD sponsored mass immunization clinic. The National Association of State Public Health Veterinarians, NASPHV Form 51, is the most current certification form used by veterinarians and this amendment is necessary to update the material incorporated by reference.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment assists in administering a state rabies law as authorized by KRS 258.075.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in preventing and controlling the spread of rabies throughout the state by: allowing an LHD to offer a low cost rabies vaccination clinic; ensuring the proper quarantine of an animal suspected of having rabies; clarifying the procedures to be followed for submitting the brain of an animal who is suspected of having rabies upon the death of the animal; and allowing an individual to be permitted to administer a rabies vaccination to animals they own.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: This amendment has the potential to impact 61 district health departments, 120 local health departments, as well as all dog, cat, and ferret owners in the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Local or district health departments not currently offering or participating in a mass rabies vaccination clinic would need to secure the services of a licensed veterinarian in their area to provide oversight of the vaccination process. Veterinarians participating in the mass immunization clinic will need to establish if the animal has previously been vaccinated and provide an appropriate vaccination according to recommendations by the National Association of State Public Health Veterinarians.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The estimated cost to a local health department would be fifty-nine (59) dollars per hour. This cost was established by considering the average salary rate for a veterinarian at forty-four (44) dollars per hour, the cost of fifteen (15) dollars for ten (10) vials of vaccination, and the cost of eighty-three (83) dollars for 100 rabies tags. The fifty-nine (59) dollar per hour costs will be offset by the maximum ten (10) dollar fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Expanding the availability of low cost rabies vaccination can help to reduce the prevalence of rabies occurring in dogs, cats, and ferrets throughout the Commonwealth.

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

(a) Initially: An average rabies clinic is six (6) hours in length. At the rate of fifty-nine (59) dollars an hour, a local health department would spend $354 per clinic. If each local health department sponsored one (1) clinic per year, the total costs would be approximately $42,480 per year.

(b) On a continuing basis: The continuing costs would be approximately $42,480.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds as well as funds generated from the nominal fee associated with the rabies vaccination will be used to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: The fee associated with this administrative regulation is being raised from not exceeding five (5) dollars to not exceeding ten (10) dollars. The actual amount of the fee for the rabies vaccination will be set by the local health department. Some local health departments may choose to not increase the fee amount.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation establishes the maximum fee to be charged to each owner of a dog, cat, or ferret receiving a vaccination through a local health department sponsored mass rabies vaccination clinic. The cost shall not exceed ten (10) dollars per vaccination given. By contrast, a rabies vaccination costs nineteen (19) dollars through Petco® and can cost between fifteen (15) and twenty-eight (28) dollars through a private veterinarian. In addition to the cost of the vaccine, a private veterinarian will likely also charge between thirty (30) to fifty (50) dollars per examination.

(9) TIERING: Is tiering applied? Tiering is applied. A local health department can charge up to the maximum fee of ten (10) dollars. Some local health departments may choose to offer the rabies vaccination for a lower fee amount.

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 Division of Epidemiology and Health Planning within the Department for Public Health.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194.050(1), 258.015, 258.043, 258.075

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? While this administrative regulation does increase the maximum fee associated with an LHD sponsored mass vaccination clinic, the total amount of revenue generated by this increase cannot be determined. Not all LHDs will sponsor a mass rabies vaccination clinic and those that do sponsor a clinic may elect to charge a fee that is lower than the maximum of ten (10) dollars. In addition, there is no way of knowing how many individuals will have their animal vaccinated through an LHD sponsored clinic.

(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 total amount of revenue generated cannot be determined.

(c) How much will it cost to administer this program for the first year? The costs for all LHDs to sponsor one (1) mass rabies vaccination clinic is approximately $42,480 per year.

(d) How much will it cost to administer this program for subsequent years? It will costs approximately $42,480 in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 15:010. Manufactured and mobile homes.

RELATES TO: KRS[~~Chapter 13B, 151.100(7),~~] 219.310-219.410, 219.991(2), 227.570(2)

STATUTORY AUTHORITY: KRS 194A.050(1), 219.340, 219.360[~~, 219.370~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes 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 219.340(1) requires the cabinet to establish a schedule of fees that shall be paid for a permit to operate a manufactured or mobile home community. KRS 219.360 authorizes the cabinet to issue a permit for the new construction or alteration of a manufactured or mobile home community.[~~KRS 219.370 requires the Secretary of the Cabinet for Health Services to regulate and enforce the Kentucky Manufactured Home, Mobile Home, and Recreational Vehicle Community Act of 2002, KRS 219.310 to 219.410.~~] This administrative regulation establishes standards for community construction and layout, sanitary standards for operation, the permitting and inspection fee schedule, and other matters necessary to insure a safe and sanitary manufactured or mobile home community operation.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 219.320(2).

(2) "Community street" means the paved portion of a roadway between curbs or, if not paved, the surfaced area separating lots.

(3) "Flood plain" means the area in a watershed that is subject to flooding at least one (1) time every 100 years.

(4)[(2)] "Footer" means that part of a manufactured or mobile home lot that[which] supports the foundation for the placement of a manufactured or mobile home and appurtenant structures or additions.

(5)[(3)] "Foundation" means the substructure placed on a footer for supporting a manufactured home or mobile home.

[(4) "Community driveway" means a private driveway which affords principal means of access between the community street and individual manufactured home or mobile home lots.

(5) "Community street" means the paved portion of a roadway between curbs or, if not paved, the surfaced area separating lots.

(6) "Sewer connection" means the connection consisting of all pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewer system serving the mobile home park.

(7) "Water connection" means the connection consisting of all pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the manufactured home or mobile home.]

Section 2. Application for a Permit. (1) A person desiring to operate a manufactured or mobile home community shall complete and submit Form DFS-200, Application for a Permit, incorporated by reference in 902 KAR 10:040, to the local or district health department serving the county in which the community is located.

(2)(a) Upon receipt of an initial application, the cabinet shall inspect the manufactured or mobile home community to determine compliance with the provisions of this administrative regulation and KRS 219.310 to 219.410.

(b) If the inspection reveals the applicable requirements of this administrative regulation have been met, a permit shall be issued to the applicant by the cabinet.

(3) The application for permit to operate a manufactured or mobile home community shall be accompanied by:

(a) An application fee of $150; and

(b) The inspection fee required by subsection (6) of this section.

(4) A permit to operate a manufactured or mobile home community shall be:

(a) Nontransferable from one (1) person to another; and

(b) Renewed annually by June 30 each year.

(5) A late penalty fee of seventy-five (75) dollars shall be assessed on all permit renewal applications not received or postmarked on or before July 31 each year.

(6) The fee assessed for the inspection of a manufactured or mobile home community shall be assessed according to the total number of spaces in the community:

(a) One (1) to ten (10) spaces - $150;

(b) Eleven (11) to fifty (50) spaces - $225;

(c) Fifty-one (51) to 100 spaces - $300;

(d) 101 to 200 spaces - $375; or

(e) 201 or more spaces - $450.

Section 3. Submission of Construction Plan. (1) A person desiring to construct or alter a manufactured or mobile home community shall complete and submit Form DFS-317, Application for a Permit to Construct or Alter a Mobile Home Park or Recreational Vehicle Park, to the local or district health department serving the county in which the community is located.

(2)[In accordance with KRS 219.350,] Each application for a permit to construct or alter a manufactured or mobile home community shall be accompanied by:

(a) A complete plan, drawn to scale, submitted in triplicate, of the proposed community or alteration; and

(b) A plan review fee of seventy (70) dollars.

(3) If the community is located within a flood plain[floodplain], the plan shall be submitted in quadruplicate.

(4) The plan shall show existing and proposed facilities including:

(a)[(1)] The area and dimensions of the tract of land being developed;

(b)[(2)] The number, location, and size of all manufactured or mobile home lots;

(c)[(3)] The area within each manufactured or mobile home lot intended for location of a manufactured or mobile home and setback distances;

(d)[(4) A detailed drawing of the manufactured or mobile home footer for the placement of the manufactured or mobile home stand within the mobile home lot;

(5)] The location and width of roadways, driveways, and walkways;

(e)[(6)] The number, location, and size of all off-street automobile parking spaces;

(f)[(7)] The location of each community street lighting and electrical system;

(g)[(8)] A detailed drawing of the water supply, if the source is other than public;

(h)[(9)] A detailed drawing of the sewage disposal facilities, including specifications;

(i)[(10)] A detailed drawing of the refuse storage facilities;

(j)[(11)] The location and size of water and sewer lines, and riser pipes;

(k)[(12)] The size and location of playground areas within the community, if provided; and

(l)[(13)] A separate floor plan of each building and other improvement constructed or to be constructed within the manufactured or mobile home community, including a plumbing riser diagram.

Section 4.[3.] Location and General Layout Standards. (1) Every manufactured or mobile home and manufactured or mobile home community shall be located on a well-drained area[, not in a flood plain]. Each site shall be graded to prevent the accumulation of storm or other waters.

(2) If the location is in an area at high risk for flooding, the applicant shall:

(a) Submit an engineering study to the cabinet; and

(b) Maintain flood insurance for the site.

(3) Each manufactured or mobile home or lot shall be numbered and displayed in a systematic order.

(4) Each manufactured or mobile home lot shall:

(a) Contain at least 4,000 square feet; and

(b) Be sized to ensure that spacing and setback requirements are met for any manufactured or mobile home placed on that lot.

(5) Manufactured or mobile homes shall be separated from each other and from other permanent buildings by at least fifteen (15) feet.

(6) A manufactured or mobile home shall be located at least twenty-five (25) feet from a community property boundary line abutting upon a public street or highway, and at least ten (10) feet from other community property boundary lines.

(7) There shall be at least twenty (20) feet between an individual manufactured or mobile home and the adjoining surface of a community street, or common parking area or other common areas.

(8) If a community provides a playground area, the area shall be easily accessible to all community residents and shall be fenced or otherwise rendered free of traffic hazards.

(9) Each lot shall abut a community street.

(a) The minimum width for a two (2) way community street with no parking shall be eighteen (18) feet.[;]

(b) The minimum width for a two (2) way community street with one (1) side parking shall be twenty-seven (27) feet.[;]

(c) The minimum width for a two (2) way community street with both sides parking shall be thirty-six (36) feet.[;]

(d) The minimum width for a one (1) way community street with no parking shall be fourteen (14) feet.[;]

(e) The minimum width for a one (1) way community street with one (1) side parking shall be twenty-three (23) feet.[;]

(f) The minimum width for a one (1) way community street with both sides parking shall be thirty-two (32) feet.

(10) Each community street, driveway, and walkway shall be:

(a) Of gravel or asphalt["all weather"] construction;

(b) Maintained in good condition;

(c) Drained naturally;
(d) Relatively free of dust; and
(e) Free of holes.

(11)[~~(a)~~] The installation area of the manufactured or mobile home[~~footer~~] shall be suitable for placement of a manufactured or mobile home foundation, in compliance with site preparation and installation requirements of 815 KAR Chapter 25.

(12) The area intended for manufactured or mobile home placement shall be inspected by agents of the cabinet prior to placement to ensure all applicable setbacks are maintained. The cabinet shall be notified at least three (3) working days in advance of placement of the home[~~:090.~~

~~(b) The manufactured or mobile home footer shall not heave, shift, or settle unevenly under the weight of the manufactured or mobile home, due to forces acting on the superstructure, such as:~~

~~1. Frost action;~~
~~2. Inadequate drainage;~~
~~3. Vibration; or~~
~~4. Other forces~~].

Section 5.[~~4.~~] Lighting within Community. A minimum equivalent to a 100 watt high pressure sodium light or light emitting diode equivalent[~~175 watt mercury vapor type light~~], shall be provided at the community entrances, intersections, and at intervals of 200 feet within the community.

Section 6.[~~5.~~] Community Water Supply. (1)(a) The water supply shall be potable, adequate, and from an approved public supply of a municipality or water district, if available.

(b) If a public water supply of a municipality or a water district is not available, the supply for the community shall be developed and approved in accordance with the applicable requirements of 401 KAR Chapter 8[~~pursuant to the requirements of the Natural Resources and Environmental Protection Cabinet~~].

(c) If a public water supply of a municipality or water district subsequently becomes available, connections shall be made to it and the community supply shall be discontinued.

(2) The water supply shall be capable of supplying at least 150 gallons per day per manufactured or mobile home lot.

(3) A physical connection shall not be made between an approved public water supply and unapproved water supply.

(4) Water distribution lines and connections shall comply with 815 KAR Chapter 20[~~the state plumbing code~~].

Section 7.[~~6.~~] Community Sewage and Waste Disposal. (1)(a) Sewage and waste matter shall be disposed of into a public sewer system, if available.

(b) If a public sewer system is not available, disposal shall be made into a private sewage disposal system designed, constructed, and operated in accordance with the requirements of 815 KAR Chapter 20 and 902 KAR Chapter 10[~~the cabinet or the Natural Resources and Environmental Protection Cabinet~~].

(c) If a public sewer system subsequently becomes available, connections shall be made to it and the community sewer system shall be discontinued.

(2)[~~The sewer service connection between the manufactured or mobile home and the sewer riser opening shall have an inside diameter of at least three (3) inches and a slope of at least one-fourth (1/4) inch per foot. All joints shall be watertight.~~

~~(3)~~] The sewer outlet shall be capped when not in use.

(3)[~~(4)~~] Manufactured or mobile home community sewer system[~~systems~~] connections shall comply with 815 KAR Chapter 20[~~the state plumbing code~~].

Section 8.[~~7.~~] Storage, Collection, and Disposal of Community Refuse. (1) The permit holder shall be responsible for storage and disposal of refuse in common containers.

(2) The storage, collection, and disposal of refuse in the community area shall not create:

(a) A health, safety, or fire hazard;
(b) Rodent harborage;
(c) Insect breeding area;
(d) Air pollution; or
(e) Other public or private nuisance.

(3) Refuse shall be stored in insect-proof, watertight, rodent-proof common containers, which shall be located near each manufactured or mobile home lot. Common containers shall be provided in sufficient number and capacity to properly store all refuse deposited by community residents.

(4) A common container storage location shall be provided, designed, and maintained not to create a nuisance.

(5) Refuse [~~containing garbage~~] shall be collected at least once a week or more often, if necessary. If suitable collection service is not available from municipal or private agencies, the owner or operator of the community shall provide this service. All refuse shall be collected and transported in covered, leak-proof containers or vehicles.

(6) Refuse [~~and waste~~] collected at a community shall be disposed in a safe and sanitary manner approved [~~by the Natural Resources and Environmental Protection Cabinet~~] in accordance with 401 KAR Chapter 47.

(7) Open burning shall be prohibited in a manufactured or mobile home community.

Section 9.[~~8.~~] Insect and Rodent Control within the Community. (1) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Approved extermination methods and other measures to control insects and rodents shall be used.

(2) Communities shall be maintained free of accumulations of debris that[~~which~~] may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.

(3) Storage areas shall be maintained to prevent rodent harborage. Lumber, pipe, and other building materials shall be stored at least one (1) foot above the ground.

(4) Within forty-five (45) days of placement, each manufactured or mobile home shall have underpinning[~~underskirting~~] of vinyl, metal, masonry, or pressure-treated lumber.

(5) A community shall be maintained to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. A community shall be free of heavy vegetative growth of any description.

Section 10.[~~9.~~] Community Electrical Distribution Systems. Every community shall contain an electrical system consisting of wiring, fixtures, equipment, and appurtenances installed and maintained pursuant to the requirements of 815 KAR 35:020[~~the Public Protection and Regulation Cabinet~~].

Section 11.[~~10.~~] Community Fire Protection. Each community shall comply with fire safety codes applicable to manufactured or mobile home [~~and recreational vehicle~~] communities, including:

(1) Spacing and setback requirements for attached or unattached accessory buildings or structures;
(2) State Fire Marshal requirements; and
(3) Local fire codes regarding fuel supply storage and fuel connections.

Section 12.[~~11.~~] Community Maintenance and Registration of Occupants. The person to whom a permit to operate a community is issued shall:

(1) Maintain the community, its facilities, and equipment in good repair and in a clean and sanitary condition;

(2) Notify community occupants of relevant provisions of this administrative regulation, including occupants' duties and responsibilities;

(3)(a) Assign proper orientation and location of each community home; and

(b) Assure proper installation and set up of each manufactured or mobile home, in compliance with the provisions established [~~by the Public Protection and Regulation Cabinet, as embodied~~] in KRS 227.570(2)[~~(3)~~] and 815 KAR Chapter 25[~~:010~~]; and

(4) Maintain a register containing the names of community occupants, to be made available to a person authorized to inspect the community.

Section 13[~~12~~]. Communities Holding a Valid Operation Permit and Constructed Prior to December 18, 2002[~~the Adoption of this Administrative Regulation~~]. (1) A community with a valid operating permit issued between January 12, 1973 and December 18, 2002[~~the date of adoption of this administrative regulation~~] shall be eligible for a permit to continue operation if it meets:

(a) The requirements of the 1973 administrative regulations; or

(b) The site plan approved by the cabinet at the time of permit issuance.

(2) A manufactured or mobile home community with a valid operating permit, constructed on or before January 12, 1973, shall be eligible for a permit to continue operation if:

(a) The community does not meet the design and construction requirements of this administrative regulation; but

(b) Community facilities are capable of being maintained in a safe and sanitary manner, in compliance with this administrative regulation; and

(c) The community does not present a public health nuisance.

(3)[~~A manufactured or mobile home community with a valid operating permit, constructed on or before January 1, 1956, shall be eligible for a permit to continue operation if:~~

~~(a) The community does not meet the design and construction requirements of this administrative regulation; but~~

~~(b) Community facilities are capable of being maintained in a safe and sanitary manner, in compliance with this administrative regulation; and~~

~~(c) The community does not present a public health nuisance.~~

~~(4)~~] A manufactured or mobile home currently in place at a community shall be allowed to continue to be situated on that lot. If the home is removed, it shall be replaced only by a home:

(a) The same size as the home being removed; or

(b) That preserves the set back and spacing requirements in effect at the time the community was constructed. A setback from an interior street shall be the maximum achievable for the replacement home.

Section 14.[~~13.~~] Inspection of Communities. (1) At least once every twelve (12) months, the cabinet shall inspect each community and shall make as many additional inspections and reinspections as are necessary for the enforcement of this administrative regulation.

(2)(a) A cabinet inspector shall record the inspection findings on the DFS-318, Mobile Home and Recreational Vehicle Park Inspection Report; and

(b)[~~in writing. The inspector shall~~] Provide a copy of the report to the permit holder or [~~his~~] designee.

(3) The findings shall:

(a) Set forth the specific violations if found;

(b) Establish a specific and reasonable period of time for the correction of the violations found; and

(c) State that failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in suspension or revocation of the permit.

Section 15.[~~14.~~] Suspension, Reinstatement, and Revocation of Permits. In addition to penalties established in KRS 219.991(2), the cabinet may suspend or revoke a permit, in accordance with KRS 219.380(2).

(1) The cabinet shall, upon notice to the permit holder, immediately suspend the permit if:

(a) There is reason to believe that an imminent public health hazard exists; or

(b) The holder or an employee has interfered with the cabinet in the performance of its duties.

(2) In all other instances of violation of the provisions of this administrative regulation the cabinet shall:

(a) Serve on the permit holder or his or her designee a written notice specifying the violation; and

(b) Afford the holder a reasonable opportunity for correction.

(3) The cabinet shall notify, in writing, a permit holder[~~or operator~~] who fails to comply with a written notice issued under the provisions of this section[~~,~~] that the permit shall be suspended at the end of ten (10) days following service of the notice.

(4)[~~Section 15. Reinstatement of Suspended Permits.~~] A person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit.

(5)[~~Within ten (10) days following receipt of a written request, including a statement signed by the applicant that the conditions causing suspension of the permit have been corrected, the cabinet shall make a reinspection. If the applicant is found to comply with the requirements of this administrative regulation, the permit shall be reinstated.~~

~~Section 16. Revocation of Permits.~~] A permit shall be permanently revoked for:

(a)[~~(1)~~] Serious or repeated violations of a requirement of this administrative regulation; or

(b)[~~(2)~~] Interference with an agent of the cabinet in the performance of his or her duties.

(6) Prior to the action, the cabinet shall notify the permit holder or[~~his~~] designee, in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten (10) days following service of the notice.

(7)[~~Section 17. Permit Renewal. (1) A permit to operate a manufactured or mobile home community shall be renewed annually, in the month of July. A permit fee shall be assessed pursuant to 902 KAR 45:120, Section 2(2).~~

~~(2)~~] If the cabinet or its agent is on notice that a manufactured or mobile home community is in violation of another agency's lawful requirement, the permit shall not be renewed until the permit holder or [~~his~~] designee demonstrates to the cabinet or its agent that the violation has been corrected.

Section 16.[~~18.~~] Appeals.[~~(1)~~] A permit holder,[~~his~~] designee, or an applicant aggrieved by a decision of the cabinet may request an appeal pursuant to 902 KAR 1:400.[~~a conference or administrative hearing. The request shall be submitted within ten (10) days of receipt of a written notice of:~~

~~(a) A violation;~~

~~(b) Suspension or revocation of a permit;~~

~~(c) Denial to renew a permit; or~~

~~(d) Denial of an initial application.~~

~~(2) Conference hearings.~~

~~(a) A conference hearing shall be conducted in accordance with 902 KAR 1:400, Administrative hearings, with the following exceptions:~~

~~1. The hearing shall be less formal than an administrative hearing;~~

~~2. The matter at issue shall be discussed before a representative of the Department for Public Health; and~~

~~3. Participants in the discussion shall be:~~

~~a. An agent of the cabinet; and~~

~~b. The permit holder, his designee, or the applicant.~~

~~(b) A request for a conference hearing shall be:~~

~~1. In writing;~~

~~2. Submitted or addressed to the cabinet's agent at the local health department that issued or gave notice of the violation, suspension, or revocation.~~

~~(c) A permit holder, his designee, or an applicant who does not agree with the conference report issued after the conference hearing may appeal by requesting an administrative hearing.~~

~~(3) Administrative hearing.~~

~~(a) A request for an administrative hearing waives the right to request a conference hearing.~~

~~(b) The administrative hearing shall be conducted in accordance with 902 KAR 1:400, Administrative hearings.~~

~~(c) A request for an administrative hearing shall be:~~

~~1. In writing;~~

~~2. Submitted or addressed to the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621; and~~

~~3. Accompanied by a copy of the notice of violation, notice to suspend or revoke, letter denying an application, or the conference hearing report.~~]

Section 17.[~~19.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) [~~"~~]DFS-317, "Application for a Permit to Construct or Alter a Mobile Home Park or Recreational Vehicle Park," Rev 10-18; and

(b) DFS-318, "Mobile Home and Recreational Vehicle Park Inspection Report," 10-18[~~(Rev. 5-91)" is incorporated by reference~~].

(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 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 12, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov, and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards for manufactured or mobile home community construction and layout, sanitary standards for operation, and other matters necessary to ensure a safe and sanitary manufactured or mobile home community operation.

(b) The necessity of this administrative regulation: This administrative regulation allows the cabinet to assess a fee for permitting and inspecting manufactured or mobile home communities to help offset the cost to the cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 219.340 authorizes the cabinet to promulgate administrative regulations to establish the requirements for issuing a permit to operate a manufactured or mobile home community and to establish a schedule of fees not to exceed the administrative costs to the cabinet for the issuance of a permit to operate a manufactured or mobile home community.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes a uniform standard for all manufactured or mobile home communities and assist the cabinet in recouping costs associated with permitting and inspecting manufactured or mobile home communities.

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

(a) How the amendment will change this existing administrative regulation: This amendment adds the permit application process to operate a manufactured or mobile home community; adds the permitting and inspection fee structure for a manufactured or mobile home community; adds the requirement for an inspection of the placement of a manufactured or mobile home before placement; updates the community lighting requirements; adds the prohibition of open burning within the community; updates references to applicable administrative regulations and revised statutes for the design and construction of the community, and the water and sewage systems; clarifies the appeals process when an application has been denied, suspended, or revoked; and makes additional formatting changes to comply with KRS Chapter 13A drafting rules.

(b) The necessity of the amendment to this administrative regulation: House Bill 327, enacted during the 2018 legislative session, removed the permitting and inspection fee structure for manufactured and mobile home communities from KRS 219.340. This amendment is necessary to add the required permitting and inspection fees to this administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 219.340 authorizes the secretary to promulgate administrative regulations to establish the fee structure for a permit to operate a manufactured or mobile home community. This amendment establishes that fee structure. KRS 219.370 authorizes the secretary to promulgate administrative regulations for the standards for community construction and layout, sanitation, water supply, sewage disposal, lighting, inspections, issuance, suspension and revocation of permits, and other matters as may be necessary to insure a safe and sanitary community operation. This amendment ensures those standards are up to date.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will incorporate all information related to operating a manufactured and mobile home community into one (1) administrative regulation. This will help to avoid conflicting information between the statute and program regulations. The change in the fee structure for manufactured and mobile home communities will help to offset cabinet cost associated with implementing the provisions of KRS 219.340.

(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 1,766 manufactured and mobile home communities in the Commonwealth. In addition, this administrative regulation will impact 120 local health departments and sixty-one (61) district health departments.

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Manufactured and mobile home community owners will need to be aware of the application process and the changes in the fee structure. Local and district health departments will need to be aware of the changes in the fee structure to ensure they are collecting the correct amounts.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The annual inspection fee for a manufactured or mobile home community will cost each community owner an additional seventy-five (75) dollars each year. The annual permit to operate a manufactured or mobile home community will increase between $100 and $270 based on the number of spaces in the community. The fee amount for submitting construction plans for review will increase ten (10) dollars. There is no anticipated costs for the local or district health departments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with this administrative regulation owners of a manufactured or mobile home community, or those interested in developing a new community, can ensure the community is operating in a safe and sanitary manner.

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

(a) Initially: This is an ongoing program, there will be no additional costs for implementation.

(b) On a continuing basis: This is an ongoing program, there will no additional ongoing costs associated with implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds and revenue received from permitting and inspecting manufactured or mobile home communities are the sources of funding for 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: This amendment increases the fees for permitting and inspecting a manufactured or mobile home community.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does increase the fee structure for permitting and inspecting a manufactured or mobile home community. The administrative cost to the cabinet is approximately $150 per hour for environmental management inspectors. This cost includes the salary of the inspector, fiscal year 2018 Kentucky Employee Retirement System (KERS) and Federal Insurance Contributions Act (FICA) contributions, and health and life insurance cost.

The number of spaces in the manufactured or mobile home community has an impact on the length of time required to conduct an inspection. The table below outlines the proposed changes in the fee structure for manufactured or mobile home communities.

Inspection fee	**10 or less spaces**	**11 to 50 spaces**	**51 to 100 spaces**	**101 to 200 spaces**	**More than 200 spaces**
Avg. Hourly Rate (including FY-18 KERS, FICA, health & life, indirect)	$150	$150	$150	$150	$150
Number of hours/inspection including travel	2	3	4	5	6
Minimum number of routine inspections/year	1	1	1	1	1
Current Permit Fee	$75	$75	$75	$75	$75
Current Inspection Fee	$50	$150	$160	$170	$180
Current total from permitting and inspection fee	$125	$225	$235	$245	$255
Proposed Permit Fee	$150	$150	$150	$150	$150
Proposed Inspection Fee	$150	$225	$300	$375	$450
Number of permitted facilities	901	651	118	66	30
Proposed fee total	$270,300	$244,125	$53,100	$34,650	$18,000
Actual expenditure	$270,300	$292,950	$70,800	$49,500	$27,000

The hours required for inspection does not include travel time to and from the manufactured or mobile home community. The inspection fee is based on routine inspection only. It does not include the costs associated with doing follow-up inspections for the correction of identified noncompliance or for complaint investigations. On average one (1) re-inspection is required for every twenty (20) inspections due to identified noncompliance issues.

(9) TIERING: Is tiering applied? Tiering is applied. The permit fee structure for a manufactured or mobile home community is dependent on the number of spaces in the community.

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 Environmental Management Branch within the Department for Public Health as well as local, district, and independent health departments throughout the Commonwealth.

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), 219.340(1), 219.360

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

(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 changes in permitting and inspection fees will generate approximately $602,193 in the first year.

(b) How much revenue will this administrative regulation generate for the state or
local government (including cities, counties, fire departments, or school districts) for subsequent years? The changes in permitting and inspection fees will continue to generate approximately $602,193 in subsequent years.

(c) How much will it cost to administer this program for the first year? The current costs to permit and inspect mobile and manufactured home communities is approximately $710,550. There is no anticipated increase in costs in the first year.

(d) How much will it cost to administer this program for subsequent years? There is not anticipated increase in costs to administer in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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

902 KAR 20:036. Operation and services; personal care homes.

RELATES TO: KRS 194A.700(1), (9), (11), 202A.011(12), 209.030, 209.032, 216.510 – 216.525, 216.532, 216.765, 216.785-216.793, 216A.080, 216B.010-216B.130, 216B.990, 310.021, 310.031, 21 C.F.R. Part 1317

STATUTORY AUTHORITY: KRS 216B.042[~~, 216B.105, 314.011(8), 314.042(8), 320.210(2), 1998 Ky. Acts ch. 228, sec. 2, ch. 424, sec. 1~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient[~~and 216B.105 require that the Cabinet for Health Services regulate~~] health facilities and health services. This administrative

regulation establishes minimum licensure requirements for the operation of and[the] services[to be] provided by personal care homes.

Section 1. Definitions. (1) "Activities of daily living" or "ADL" is defined by KRS 194A.700(1)[means activities of self-help (example: being able to feed, bathe and/or dress oneself), communication (example: being able to place phone calls, write letters and understanding instructions), and socialization (example: being able to shop, being considerate of others, working with others and participating in activities)].

(2)["Activities services" means social and recreation opportunities to stimulate physical and mental abilities, encourage and develop a sense of usefulness and self respect and encourage participation in a variety of activities.

(3)] "Administrator" means an individual[a person] who:

(a) Has a license to practice long-term care administration pursuant to KRS 216A.080; or

(b) Has[sufficient education to: maintain adequate records; submit reports requested by the board; and interpret any written material related to all phases of facility operation and resident's care. The administrator shall: be literate; be] a high school diploma, a general equivalency diploma (GED), or qualifying documentation from a comparable educational entity; and

(c) Is age[graduate or have passed the general Education Development Test; be] twenty-one (21)[years of age] or older[; or

(b) Is licensed as a nursing home administrator as provided by KRS 216A.080].

(3)[(4)] "Ambulatory" means able to walk without assistance.

(4) "Certified nutritionist" means a health care professional who is certified pursuant to KRS 310.031.

(5) "Instrumental activities of daily living" or "IADL" is defined by KRS 194A.700(9).

(6) "Licensed dietician" means a health care professional who is licensed pursuant to KRS 310.021[(5) "License" means an authorization issued by the Certificate of Need and Licensure Board for the purpose of operating a personal care home and offering personal care services].

(7)[(6)] "Mobile nonambulatory" is defined by KRS 194A.700(11) [means unable to walk without assistance, but able to move from place to place,] and includes the ability to:

(a) Self exit the building; and

(b) Transfer independently or with minimal assistance from bed-to-chair[, with the use of a device such as a walker, crutches, or a wheelchair and capable of independent bed-to-chair transfer or bed-to-chair transfer with minimal assistance].

(8)[(7)] "Nonambulatory" means unable to walk without assistance.

(9)[(8)] "Nonmobile" means unable to move from place to place.

(10) "Personal care home" or "PCH" means an establishment located in a permanent building that has resident beds and provides:

(a) Supervision of residents;

(b) Basic health and health-related services;

(c) Personal care services;

(d) Residential care services; and

(e) Social and recreational activities.

(11) "Qualified mental health professional" or "QMHP" is defined by KRS 202A.011(12).[(9) "Personal care" means services to help residents to achieve and maintain good personal hygiene including but not limited to: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, washing, grooming and cutting of hair.

(10) "Qualified dietician or nutritionist" means a person who:

(a) Has a bachelor of science degree in foods and nutrition, food service management, institutional management, or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) Has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) Has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(11) "Residential care" means services which include but are not limited to: room accommodations, housekeeping and maintenance services, dietary services and laundering of resident's clothing and bed linens.]

(12) "Restraint" means any pharmaceutical agent,[or] physical device, or mechanical device used to restrict the resident's freedom of movement temporarily to manage a resident's behavior in a way that reduces the safety risk to the resident or others[of a patient or the movement of a portion of a patient's body].

(13) "Serious mental illness" or "SMI" means a mental illness or disorder (but not a primary diagnosis of Alzheimer's disease or dementia), that is described in the Diagnostic and Statistical Manual of Mental Disorders (DSM), 5th Edition, or the DSM currently in use, that impairs or impedes functioning in one (1) or more major areas of living and is unlikely to improve without treatment, services, or supports.

(14) "Specialized personal care home" or "SPCH" means a personal care home that:

(a) Participates in the mental illness or intellectual disability supplement program pursuant to 921 KAR 2:015, Section 13; or

(b) Serves residents with thirty-five (35) percent or more having an SMI.

Section 2. Scope of Operations and Services. (1)[A personal care home is an establishment with permanent facilities including resident beds. Services provided include continuous supervision of residents, basic health and health-related services, personal care services, residential care services, and social and recreational activities.] A resident in a PCH or SPCH[personal care] home shall:

(a) Be admitted in accordance with KRS 216.765;

(b) Be[sixteen (16) years of age or older and be] ambulatory or mobile nonambulatory;

(c) Be[, and] able to manage most of the activities of daily living; and

(d) Have care needs that do not exceed the capability of the PCH or SPCH.

(2) An individual[Persons] who is[are] nonambulatory or nonmobile shall not be eligible for residence in a PCH or SPCH[personal care home].

Section 3. Administration and Operation. (1) Licensee. [(a)] The licensee shall be legally responsible for:

(a) The operation of the PCH or SPCH;

(b)[personal care home and for] Compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the facility;

(c) The development and implementation of[home. (b) The licensee shall establish] policies related to[for the] administration and operation of the facility; and

(d) If the licensee is an SPCH, the development and implementation of written transition procedures to ensure cooperation with an individual or entity that assists with transitioning residents with an SMI to community living arrangements[service].

(2) Administrator.

(a) The[All personal care facilities shall have an] administrator [who] shall:

1. Be responsible for the day-to-day operation of the PCH or SPCH; and

2. Designate one (1) or more staff to act on behalf of, or to perform the administrator's responsibilities in the administrator's[facility and shall delegate such responsibility in his or her] absence.

(b) Each SPCH shall ensure that the administrator completes the mental illness or intellectual disability training workshop established by 921 KAR 2:015, Section 14, within six (6) months from the effective date of this administrative regulation and every two (2) years thereafter.

(3) Admission.

(a)[Personal care homes shall admit only persons who are sixteen (16) years of age or older and who are ambulatory or

~~mobile nonambulatory and whose care needs do not exceed the capability of the home. Persons who are nonambulatory or nonmobile shall not be eligible for admission to a personal care home.~~

~~(b)~~] A PCH or SPCH[~~personal care home~~] shall not care or be responsible for the care of more residents than the capacity indicated on the license[~~, regardless of where housed~~].

(b)[~~(c)~~] Upon admission, a PCH or SPCH shall provide the resident and a responsible member of the resident's[~~his~~] family or other designated representative with written information regarding the facility's policies, including:

1. Services offered and charges;

2. The right to visitation with family and friends, subject to visiting rules and hours established by the facility; and

3. Meal services[~~committee shall be informed in writing of the established policies of the home to include but not be limited to fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered~~].

(c) Prior to[~~(d) Upon~~] admission, each resident shall have a complete medical examination in accordance with KRS 216.765 [~~evaluation including medical history, physical examination and diagnosis (may be copy of discharge summary or health and physical report from physician, hospital or other health care facility if done within fourteen (14) days prior to admission)~~].

(d) No later than three (3) months from the effective date of this administrative regulation, a PCH or SPCH shall complete the SMI Screening Form for each current resident. Upon admission, a PCH or SPCH shall complete the SMI Screening Form for each new or returning resident.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Adult[~~and child~~] protection. PCHs and SPCHs [~~Personal care homes~~] shall have written policies that[~~which~~] assure the reporting of allegations[~~cases~~] of abuse, neglect, or exploitation of adults[~~and children~~] pursuant to KRS 209.030, including evidence that all allegations of abuse, neglect, or exploitation are thoroughly investigated internally to prevent further potential abuse while the investigation is in progress[~~Chapters 209 and 620~~].

(6) Transfer and discharge.

(a) PCHs and SPCHs[~~personal care homes~~] shall:

1. Comply with the requirements of 900 KAR 2:050 upon[~~when~~] transferring or discharging a resident; and

2.[~~residents. (a) Personal care homes shall~~] Have written transfer procedures and agreements for the transfer of residents to a higher intensity level of care, if indicated[~~other health care facilities which can provide a level of inpatient care not provided by the personal care home~~].

(b) A PCH or SPCH that[~~Any facility which~~] does not have a transfer agreement in effect, but has attempted in good faith to enter into[~~such~~] an agreement shall be considered to be in compliance with the requirements of paragraph (a)2. of this subsection.

(c)[~~licensure requirement.~~] The transfer procedures and agreements shall:

1. Specify the responsibilities each party[~~institution~~] assumes in the transfer of residents;

2.[~~patients and~~] Establish responsibility for notifying the other party [~~institution promptly~~] of an[~~the~~] impending transfer; and

3.[~~of a patient and~~] Arrange for[~~appropriate and~~] safe transportation and transfer of files.

(d)[~~(b)~~] The administrator shall initiate a transfer through the resident's physician or appropriate agencies if[~~when~~] the resident's condition is not within the scope of services of the PCH or SPCH[~~a personal care home~~].

(e) PCH or SPCH resident records.

1. If a resident transfers[~~(c) In the event of transfer~~] to another health care facility, a current summary of the resident's medical record shall accompany the resident.

2. If a resident transfers[~~When a transfer is~~] to another level of care within the same facility, a copy of the resident's record or current summary of the resident's medical record[~~thereof~~] shall accompany the resident.

3. If a resident transitions into a community living setting, a current summary of, or a copy of the resident's records shall be provided to the resident and the resident's guardian.

(7) Tuberculosis Testing.

(a) All employees of a PCH or SPCH[~~and residents~~] shall be screened and tested for tuberculosis in accordance with 902 KAR 20:205.

(b) Residents of a PCH or SPCH shall be screened and tested in accordance with[~~the provisions of~~] 902 KAR 20:200[~~, Tuberculosis testing in long term care facilities~~].

(8) Personnel.

(a) In accordance with KRS 216.532, a PCH or SPCH shall not employ or be operated by an individual who is listed on the nurse aide and home health aide abuse registry established by 906 KAR 1:100.

(b) In accordance with KRS 209.032, a PCH or SPCH shall not employ or be operated by an individual who is listed on the caregiver misconduct registry established by 922 KAR 5:120.

(c) A PCH or SPCH shall obtain a criminal record check on each applicant for initial employment in accordance with KRS 216.789 and 216.793.

(d)[~~Operators and employees of personal care homes shall comply with 1998 Ky. Acts ch. 424, sec. 1.~~

~~(b)~~] Current employee records shall be maintained on each staff member and contain the following items:

1. Name and address;

2. Verification of all[~~and shall include a record of each employee's~~] training and experience, including evidence of current licensure, registration, or certification, if applicable;

3. Employee[~~where required by law,~~] health records;

4. Annual performance evaluations; and

5. Documentation of compliance with the background check requirements of paragraph (a) through (c) of this subsection[~~and evaluation of performance, along with employee's name, address and Social Security number~~].

(e) Each employee[~~(c) All employees~~] shall be of an age in conformity with state laws.

(f) An[~~(d) Any~~] employee who contracts a communicable or[~~contracting~~] an infectious disease shall:

1. Be immediately excluded from work; and

2. Remain off work until cleared as noninfectious by a health care practitioner acting within the practitioner's scope of practice.

(g) Each[~~not appear at work until the infectious disease can no longer be transmitted. (e) All~~] dietary staff member[~~employees~~] shall wear a hair net[~~nets~~].

(h)[~~(f)~~] In-service training.

1. Each PCH and SPCH employee[~~All personal care home employees~~] shall receive orientation and annual in-service training that corresponds[~~to correspond~~] with the staff member's job duties[~~of their respective jobs~~].

2. Documentation of orientation and in-service training shall be maintained in the employee's record and shall include the following:

a. Name of the individual or individuals who provided[~~gave~~] the training;

b.[~~,~~] Date and number of hours the[~~period of time~~] training was given; and

c. A summary of[~~what~~] the training program's content[~~consisted of~~].

3. In-service training shall include[~~but not be limited to~~] the following:

a.[~~1.~~] Policies regarding the responsibilities of specific job[~~of the facility in regard to the performance of their~~] duties;

b.[~~2.~~] Services provided by the facility;

c.[~~3.~~] Recordkeeping procedures;

d.[~~4.~~] Procedures for the reporting of cases of adult[~~and child~~] abuse, neglect, or exploitation pursuant to KRS 209.030[~~Chapters 209 and 620~~];

e. Resident[~~5. Patient~~] rights established by[~~as provided for in~~] KRS 216.510 to 216.525;

f. Adult learning principles, and[~~6.~~] methods for[~~of~~] assisting residents[~~patients~~] to achieve maximum abilities in ADLs and IADLs [~~activities of daily living~~];

g.[~~7.~~] Procedures for the proper application of emergency

manual[physical] restraints;

h.[8.] Procedures for maintaining a clean, healthful, and pleasant environment;

i.[9.] The aging process;

j.[10.] The emotional problems of illness;

k.[11.] Use of medication; and

l. [12.] Therapeutic diets.

4. Each SPCH shall ensure that at least one (1) direct care staff member in addition to the administrator completes the mental illness or intellectual disability training workshop established by 921 KAR 2:015, Section 14, within six (6) months from the effective date of this administrative regulation and every two (2) years thereafter. An SPCH shall employ at least one (1) direct care staff member who has received the training.

(i)[(g)] Staffing requirements.

1. The number of personnel required shall be based on:

a. The number of patients; and

b. Amount and kind of personal care, health care, and[,] supervision[, and program] needed to meet the needs of the residents [as determined by the definitions of care and services required in this administrative regulation].

2.[If the staff to resident ratio does not meet the needs of the residents, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3.] The administrator shall designate one (1) or more staff members to be[a person for each of the following areas who will be primarily] responsible for the following services[coordination and provisions of services (personnel may be required to perform combined duties)]:

a. Recordkeeping;

b. Basic health and health related services; and

c. Activity services.

3.[4.] Each PCH or SPCH[facility] shall have a full-time staff member who shall be:

a.[person designated by the administrator,] Responsible for the total food service operation of the facility; and

b.[who shall be] On duty a minimum of thirty-five (35) hours each week.

5. A PCH or SPCH shall ensure that sufficient staff, but no less than one (1) staff member[attendant] shall be awake and on duty on each floor in the facility at all times.

(9) Medical records.

(a) The PCH or SPCH administrator or staff member[person] in charge of medical records shall assure that a complete medical record is[shall be] kept for each resident with all entries current, dated, and signed.

(b)[Entries should be made in ink, ballpoint, or typed.] Each record shall include the following:

1.[(a)] Identification information, including:

a.[1.] Resident's name;

b.[2.] Social Security, Medicare and Medical Assistance identification number (if appropriate);

c.[3.] Marital status;

d.[4.] Birthdate;

e.[5.] Age;

f.[6.] Sex;

g.[7.] Home address;

h.[8.] Religion and personal clergyman, if any (with consent of the resident);

i.[9.] Attending physician, health care practitioner acting within the practitioner's scope of practice, QMHP, dentist, and podiatrist, if any, and[;] address and phone number for each[one];

j.[10.] Next of kin or responsible person, address, and telephone number;

k.[11.] Date of admission and discharge;

l. If the resident is discharged, transferred, or transitioned to a community living arrangement[12. In the event of transfer], a copy of the summary of resident's records; and

m.[13.] Monthly recording of the resident's weight;

2.[. (b)] If admitted from another facility, a discharge summary or transfer summary;

3.[. (c)] Admitting medical evaluation;

4.[. (d) Physician's] Report by the physician or health care practitioner acting within the practitioner's scope of practice, documenting completion of an[on] annual medical evaluation of each[the] resident;

5.[. (e)] Physician, health care practitioner, or QMHP progress notes indicating any changes in the resident's condition, documented at the time of each visit by the physician, health care practitioner, QMHP, or[and] consultant;

6.[. (f)] Orders for medication or therapeutic services;

7.[. (g)] Nurses' or staff notes indicating any changes in a resident's condition as changes[they] occur;

8. Documentation of any accident, injury, illness, medication error, or drug reaction;

9. Documentation[. (h) Reports of accidents or acute illnesses of any resident.

(i) Reports] of social services, dental, laboratory, x-ray, or[and special] reports from[of] consultants or therapists if[when] the resident receives any of these services;

10.[(j)] Medication and treatment sheets, including all medications, treatments, and special procedures performed, with the[indicating] date and time of each service documented and[. Entries shall be] initialed by the individual[personnel] rendering treatment or administering medication;

11. Documentation[. (k) Reports] of the use of an emergency manual restraint[physical restraints], including justification for why the procedure was[procedures] used;

12. Documentation[, and the checks and releases of physical restraints. (l) A record] of the resident's discharge, transfer, or transition destination, if applicable; and

13. Monthly documentation of ADL and IADL skills instruction provided to, or made available and refused by SPCH residents who are transitioning to living independently in the community pursuant to 908 KAR 2:065.

(10) Retention of records. After death or discharge the completed medical record shall be placed in an inactive file and retained for six (6)[five (5)] years[, or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest].

Section 4. Provision of Services. (1) Basic health and health related services.

(a) A PCH or SPCH[All personal care homes] shall provide basic health and health related services, including:

1.[Continuous] Supervision and monitoring of the resident to assure that the resident's health care needs are[being] met;

2.[,] Supervision of self-administration of medications;

3.[,] Storage and control of medications; and

4. Arranging[, when necessary, and making arrangements] for[obtaining] therapeutic services ordered by the resident's health care practitioner, if the services[physician which] are not available in the facility.

(b) A PCH or SPCH[All personal care homes] shall meet the following requirements relating to the provision of basic health and health related services:

1. The administrator or staff person designated by the administrator[(a) The person in charge of the facility] shall:

a. Be responsible for obtaining medical care[by a licensed physician] promptly in response to an[cases of] accident, injury, or acute illness of any resident; and

b. Document any accident, injury, illness, incident, medication error, or drug reaction[. Such instances shall be recorded] in the resident's medical record.

(c)[(b)] Medications or therapeutic services shall not be administered or provided to any resident, except on the order of a licensed physician or other health care practitioner as authorized under the practitioner's[ordering personnel acting with the limits of their statutory] scope of practice.

(d) Administration of all medications and delivery[provisions] of therapeutic services shall be recorded in the resident's medical record.

(e)[(c)] If an order is[orders are] received by telephone, the order shall be:

1. Recorded in the resident's[on the individual's] medical record; and

2. Signed by the physician or other health care practitioner as authorized under the practitioner's[ordering personnel acting within the limits of their statutory] scope of practice within fourteen (14) days.

(f)1. The administrator or staff person designated by the administrator shall make[(d)] a written report of any incident or accident involving a:

a. Resident, [(]including a medication error[errors] or drug reaction;

b.[reactions),] Visitor; or

c. Staff member.

2. The report shall:

a. Identify[be made and signed by the administrator, and] any staff member who may have been witness to the incident; and

b.[The report shall] Be filed in an incident file.

(g)1.[(e)] Controlled substances. A PCH or SPCH[home] shall not keep any controlled substances or other habit forming drugs, hypodermic needles, or syringes except under the specific direction of a prescribing practitioner[physician].

2. Controlled substances shall be kept under double lock, e.g. stored[(i.e.,] in a locked box in a locked cabinet[)].

3. There shall be a controlled substances bound record book with numbered pages that includes the following:

a.[, in which is recorded the] Name of the resident;

b.[the] Date, time, kind, dosage, and method of administration of each[all] controlled substance[substances];

c.[the] Name of the practitioner[physician] who prescribed the medications; and

d.[the] Name of the:

(i) Nurse who administered the controlled substance;[it,] or

(ii) Staff member who supervised[the] self-administration by a resident whose medical record includes a written determination from a health care practitioner that the resident is able to safely self-administer a controlled substance under supervision.

4. A staff member with access to controlled substances shall be responsible for maintaining[In addition, there shall be] a recorded and signed:

a. Schedule II controlled substances count daily;[,] and

b. Schedule III, IV, and V controlled substances count at least one (1) time[once] per week[by those persons who have access to controlled substances].

5. All expired or unused controlled substances[which are left over after the discharge or death of the resident] shall be disposed of, or destroyed in accordance with 21 C.F.R. Part 1317 no later than thirty (30) days:

a. After expiration of the medication; or

b. From the date the medication was discontinued[C.F.R. 1307.21].

6. If controlled substances are destroyed on-site:

a. The method of destruction shall render the drug unavailable and unusable;

b. The administrator or staff person designated by the administrator shall be responsible for destroying the controlled substances with at least one (1) witness present; and

c. A readily retrievable record of the destroyed controlled substances shall be maintained for a minimum of eighteen (18) months from the date of destruction and contain the following:

(i) Date of destruction;

(ii) Resident name;

(iii) Drug name;

(iv) Drug strength;

(v) Quantity;

(vi) Method of destruction;

(vii) Name of the person responsible for the destruction; and

(viii) Name of the witness.

(h)[(f)] All resident medications[medicines] shall be plainly labeled with the following:

1. Resident's name;

2.[, the] Name of the drug;

3.[,] Strength;

4.[,] Name of the pharmacy;

5.[,] Prescription number;

6.[,] Date;

7. Prescriber's[, Physician] name;

8.[,] Caution statements and directions for use, unless a[except where accepted] modified unit dose drug distribution system is[systems conforming to federal and state laws are] used.

(i)1. All medicines kept by the PCH or SPCH[home] shall be kept in a locked place.

2. The administrator or staff person designated by the administrator[and the persons in charge] shall:

a. Be responsible for administering or supervising the self-administration of medication;

b. Ensure that all[giving the medicines and keeping them under lock and key.] medications requiring refrigeration are[shall be] kept in a separate locked box[of adequate size] in the refrigerator in the medication area; and

c. Ensure that[.] drugs for external use are[shall be] stored separately from those administered by mouth and injection[. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with existing federal and state laws and regulations].

(j)1.[(g)] If a resident manifests persistent behavior that may require psychiatric treatment, the PCH or SPCH shall notify the resident's physician or health care practitioner acting within the practitioner's scope of practice[shall be notified in order] to evaluate and direct the resident's care.

2. If the resident's condition does not improve[enough] for[his] continued stay in a PCH or SPCH[personal care facility], the physician or health care practitioner shall initiate transfer of the resident to an appropriate facility as soon as possible.

(k)[(h)] Use of restraints.

1. Chemical and physical[No] restraints shall not be used, except as permitted by KRS 216.515(6).

2. Restraints that require a lock and key shall not be used.

3. Emergency use of a manual restraint[Restraints] shall be applied only by appropriately trained personnel if:

a. A resident poses an imminent risk of physical harm to self or others; and

b. The emergency manual restraint is the least restrictive intervention to achieve safety.

4. Restraints shall not be used as:

a.[A] Punishment;

b.[, as] Discipline;

c.[, as a] Convenience for[the] staff;[,] or

d. Retaliation[as a mechanism to produce regression].

(l)[(i)] Each resident shall have an annual medical evaluation by a physician or health care practitioner acting within the practitioner's scope of practice.[The results of this evaluation shall be recorded in the resident's medical record].

(m)[(j)] Communicable diseases. If a resident or prospective resident is suspected or confirmed as having[known to have] a communicable disease for which a reasonable probability of disease transmission exists in the PCH or SPCH[personal care home], the administrator or staff person designated by the administrator shall:

1. Contact[assure that] a physician; and

2. Ensure[is contacted and] that appropriate measures are taken to treat[on behalf of] the resident with the communicable disease and prevent the disease from spreading[other residents].

(2) Residential care services. A PCH or SPCH[personal care home] shall provide residential care services to all residents, including:

(a) Room accommodations;

(b)[,] Housekeeping and maintenance services;[,] and

(c) Dietary services.

(3) A PCH or SPCH[personal care home] shall meet the following requirements relating to the provisions of residential care services:

(a) Room accommodations.

1. A PCH or SPCH shall provide each resident with:

a.[shall be provided] A bed that is at least thirty-six (36) inches wide;

b.[equipped with substantial spring,] A clean comfortable mattress with a support mechanism;

c.[,] A mattress cover;

d.[,] Two (2) sheets and a pillow;[,] and

e.[such] Bed covering[as is required] to keep the resident[residents] comfortable.

2. Each bed[Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by residents] shall be placed so that a[no] resident does not[may] experience discomfort because of proximity to a radiator, heat outlet, or exposure to a draft[radiators, heat outlets, or by exposure to drafts].

3. Except for married couples or domestic partners, there shall be separate sleeping quarters for males and females.

4. A PCH or SPCH[2. The home] shall provide:

a. Window coverings;

b.[,] Bedside tables with reading lamps,[{]if appropriate;

c.[}.,] Comfortable chairs;

d. A[,] chest or dresser with a mirror for each resident;[dressers with mirrors] and

e. A night light.

5. A resident shall not be housed in a room, detached building, or other enclosure that has not previously been inspected and approved for residential use by the Office of Inspector General and the Department of Housing, Buildings and Construction[3. Residents shall not be housed in unapproved rooms or unapproved detached buildings].

6.[4.] Basement rooms shall not be used for sleeping rooms for residents.

7.[5.] Residents may have personal items and furniture, if[when it is physically] feasible.

(b) Housekeeping and maintenance services.

1. A PCH or SPCH[The home] shall:

a. Maintain a clean and safe facility free of unpleasant odors; and

b. Ensure that[.] odors are[shall be] eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans, and other[obvious] sources.

2. A PCH or SPCH shall:

a. Have available at all times a quantity[An adequate supply] of clean linen essential to the proper care and comfort of residents;

b. Ensure that[should be on hand at all times.] soiled clothing and linens[shall] receive immediate attention and[should] not be allowed to accumulate;

c. Ensure that[.] clothing or bedding used by one (1) resident shall not be used by another resident unless[until it has been] laundered or dry cleaned;

d. Ensure that each[. 3. Laundering of resident's normal personal clothing and bed linens.] resident's personal clothing and bed linens are[shall be] laundered[by the home] as often as is necessary;

e. Maintain responsibility for laundering each[.] resident's personal clothing[shall be laundered by the home] unless the resident or the resident's family accepts this responsibility;

f. Provide laundry equipment for each resident who is[. Residents] capable of, and chooses to launder his or her[laundering their own] personal clothing; and

g. Labels or marks each[and wishing to do so may, instead, be provided the facilities to do so.] resident's personal clothing if laundered by the facility for return[shall be marked to identify the resident-owner and returned] to the correct resident.

3.[4.] Safety. The condition of the overall environment[home] shall be maintained in such a manner that the[take appropriate precautions to insure] safety and well-being of residents, personnel, and visitors is assured[and employees].

4.[5.] Maintenance. The premises shall be well kept and in good repair as follows[. Requirements shall include but not be limited to]:

a. The facility shall insure that the grounds are well kept and the exterior of the building,[and] including the sidewalk, steps, porches, ramps and fences are in good repair.

b. The interior of the building, including walls, ceilings, floors, windows, window coverings, doors, plumbing, and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. Care shall be taken to use the least toxic and least flammable[effective] insecticides and rodenticides. The compounds shall be stored under lock.

(c) Dietary services.

1. Dining area. A dining area shall be available for the residents.

2. Therapeutic diets. If the facility provides therapeutic diets[,] and the staff member[designated person] responsible for food services is not a licensed[qualified] dietician or certified nutritionist, the responsible staff person shall consult with a licensed[consultation by a qualified] dietician or certified[qualified] nutritionist[shall be provided].

3. Menu planning.

a. Menus shall be planned in writing and rotated to avoid repetition.

b. A PCH or SPCH shall meet the nutrition needs of residents[shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity and] in accordance with physician's orders.

c.[b.] Meals shall correspond with the posted menu.

d. Menus shall be planned and posted one (1) week in advance.

e. If[When] changes in the menu are necessary:

(i)[,] Substitutions shall provide equal nutritive value;

(ii)[and] The changes shall be recorded on the menu; and

(iii) Menus shall be kept on file for thirty (30) days.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced, palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement.

c. Modified diets, nutrient concentrates, and supplements shall be given only on the written order[orders] of a physician.

d.[c.] At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast.

e. Between-meal snacks, including[to include] an evening snack before bedtime shall be offered to all residents.

f. Adjustments shall be made if[when] medically contraindicated.

g.[d.] Food shall be:

(i) Prepared by methods that conserve nutritive value, flavor, and appearance;[,] and

(ii)[shall be attractively] Served at the proper temperature[temperatures] and in a form to meet individual needs.

h. A file of tested recipes, adjusted to appropriate yield, shall be maintained.

i. Food shall be cut, chopped, or ground to meet individual needs.

j. If a resident refuses food served, substitutes shall be offered.

k.[e.] All opened containers or leftover food items shall be covered and dated when refrigerated.

l.[f.] Ice water shall be readily available to the residents at all times.

m. Food services shall be provided in accordance with[5. Sanitation. Personal care homes shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and] 902 KAR 45:005.

(4)[(3)] Personal care services. All PCHs and SPCHs[personal care homes] shall provide services to assist residents with activities of daily living to achieve and maintain good personal hygiene, including[the level of] assistance as needed[necessary] with:

(a) Bathing[Washing and bathing of the body to maintain clean

~~skin and freedom from offensive odors~~].[~~In addition to assistance with washing and bathing,~~] The facility shall provide soap, clean towels, and wash cloths for each resident and ensure that[~~.~~] toilet articles such as towels, brushes, and combs are[~~shall~~] not[~~be~~] used in common;[~~.~~]

(b) Shaving;[~~.~~]

(c) Cleaning and trimming of fingernails and toenails;[~~.~~]

(d) Cleaning of the mouth and teeth to maintain good oral hygiene, and[~~as well as~~] care of the lips to prevent dryness and cracking. The facility shall provide all residents[~~shall be provided~~] with tooth brushes, a dentifrice, and denture containers, if[~~when~~] applicable; and[~~.~~]

(e) Washing, grooming, and cutting of hair.

(5)[~~(4)~~] Activity services.

(a) All PCHs and SPCHs[~~A personal care home~~] shall provide social and recreational activities to:

1. Stimulate physical and mental abilities to the fullest extent;

2. Encourage and develop a sense of usefulness and self-respect;

3. Prevent, inhibit, or correct the development of symptoms of physical and mental regression; and

4. Provide[~~due to illness or old age, be of~~] sufficient variety to [~~that they~~] meet the needs of each resident[~~the various types of residents in the home~~].

(b) All PCHs and SPCHs[~~A personal care home~~] shall meet the following requirements relating to the provision of activity services:

1. Staff.[~~A person designated by~~] The administrator shall:

a. Designate a staff member to be responsible for the activity program; and

b. May accept services from a[~~. (~~] volunteer group[~~groups may be enlisted~~] to assist with carrying out the activity[~~activities~~] program.[~~)~~]

2. There shall be a planned activity period each day.

3. The schedule shall be current and posted.

4.[~~3.~~] The activity program shall be planned for group and individual activities, both within and outside of the facility.

5.[~~4.~~] The staff member[~~person~~] responsible for the activity program[~~activities~~] shall maintain a current list of residents in[~~on~~] which precautions are documented[~~noted~~] regarding whether a resident's condition may[~~that might~~] restrict or modify the resident's[~~his~~] participation in the program.

6.[~~5.~~] A living or recreation room and outdoor recreational space shall be provided for residents and their guests.

7.[~~6.~~] The facility shall provide supplies and equipment for the activity[~~activities~~] program.

8.[~~7.~~] Reading materials, radios, games, and TV sets shall be provided for the residents.

(c) An SPCH shall collaborate with the agency or team that is working with residents transitioning to community living pursuant to 908 KAR 2:065 to offer basic instruction in ADLs and IADLs to each resident who is identified as working to transition to independent community living pursuant to 908 KAR 2:065. ADL and IADL skills training shall include instruction that is integrated into the normal rhythms of life.

Section 5. Material Incorporated by Reference. (1) The form, "SMI Screening Form", April 15, 2019 edition, is incorporated by reference.

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

STEVEN D. DAVIS, Inspector General
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April12, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. In accordance with KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes, email stephanie.brammer@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum licensure requirements for the operation of and services provided by personal care homes.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 216B.042, which requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, including licensure standards and procedures to ensure safe, adequate, and efficient health services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042 by establishing standards for licensed personal care homes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing standards for licensed personal care homes.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the definitions section, notably by moving language from Section 2 describing a personal care home into Section 1, as well as defining "specialized personal care home (SPCH)" as a personal care home that participates in the mental illness or intellectual disability (MI/ID) supplement program pursuant to 921 KAR 2:015, or otherwise serves residents in which thirty-five (35) percent or more of the resident population has a serious mental illness (SMI); adds a definition of "qualified mental health professional", "serious mental illness", and updates other definitions for clarity; deletes obsolete language related to the age of admission to a PCH and inserts a cross-reference to KRS 216.765(2) which states that "no person under the age of eighteen (18) shall be admitted to a personal care home"; requires each SPCH to develop and implement written transition procedures to ensure cooperation with an individual or entity that assists with transitioning residents with an SMI to a community living arrangement; requires the administrator of an SPCH and at least one (1) direct care staff member to complete the MI/ID training workshop established by 921 KAR 2:015, Section 14, within six (6) months from the effective date of this administrative regulation and every two (2) years thereafter; requires a PCH or SPCH to complete the SMI Screening Form for each resident at the time of admission; adds a cross-reference to 902 KAR 20:205 which establishes the tuberculosis screening requirements for employees of health facilities; requires a summary of, or a copy of the resident's records to be provided to the resident and the resident's

guardian if the resident transitions to a community living setting; clarifies requirements related to the destruction of expired or unused controlled substances that are destroyed on-site; requires an SPCH to collaborate with the agency or team that is working with residents transitioning to community living pursuant to 908 KAR 2:065 to offer basic instruction in activities of daily living (ADL) and instrumental activities of daily living (IADL) to each resident who is identified as working to transition to independent community living pursuant to 908 KAR 2:065; requires SPCHs to maintain monthly documentation of ADL and IADL skills instruction provided to, or made available to and refused by, residents who are transitioning to living independently in the community; and makes technical changes for compliance with KRS Chapter 13A to improve clarity and flow.

(b) The necessity of the amendment to this administrative regulation: In October 2018, the Cabinet entered into a Second Amended Settlement Agreement (SASA) with Kentucky Protection and Advocacy as it relates to services provided to individuals with SMI. One of the provisions of the SASA requires that the Cabinet promulgate administrative regulations within 180 days regarding personal care homes. Specifically, the regulation must require:
"... instruction in community transition skills, including Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) at all PCHs that participate in the Mental Illness or Intellectual Disability Supplement Program pursuant to 921 KAR 2:015, Section 13 and all PCHs that have more than thirty-five percent (35%) residents with SMI as shown in the Annual Long-Term Care Utilization and Service Report data."

This amendment therefore adds a definition of "specialized personal care home (SPCH)" and requires SPCHs to collaborate with the agency or team that is working with residents transitioning to community living pursuant to 908 KAR 2:065 to offer basic instruction in ADLs and IADLs to each resident who is identified as working to transition to independent community living. Other changes to the administrative regulation as described above were necessary to establish requirements for SPCHs, delete obsolete language, and make technical changes for compliance with KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.042 by establishing standards for licensed personal care homes.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing standards for licensed personal care homes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts licensed personal care homes. Currently, there are 97 freestanding personal care homes and 64 long-term care facilities with personal care home beds.

(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: To comply with this amendment, SPCHs will be required to:

Develop and implement written transition procedures to ensure cooperation with an individual or entity that assists with transitioning residents with an SMI to a community living arrangement;

Ensure that the facility's administrator and at least one (1) direct care staff member complete the mental illness or intellectual disability training workshop established by 921 KAR 2:015, Section 14, within six (6) months from the effective date of this administrative regulation and every two (2) years thereafter;

Complete the SMI Screening Form for each new or returning resident at the time of admission and complete the SMI Screening form for each current resident no later than three (3) months from the effective date of this administrative regulation (this requirement will apply to PCHs in addition to SPCHs);

Provide a summary of, or a copy of the resident's records to the resident and the resident's guardian if the resident transitions to a community living setting;

Collaborate with the agency or team that is working with residents transitioning to community living pursuant to 908 KAR 2:065 to offer basic instruction in ADLs and IADLs to each resident who is identified as working to transition to independent community living pursuant to 908 KAR 2:065. ADL and IADL skills training will include instruction that is integrated into the normal rhythms of life; and

Maintain monthly documentation of ADL and IADL skills instruction provided to, or made available to and refused by, residents who are transitioning to living independently in the community.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The actions identified under (4)(a) are in addition to existing requirements. However, the one (1) day MI/ID training workshop provided through the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) is free of charge to each SPCH administrator and the facility's direct care staff. Moreover, DBHDID is required to pay, based on the availability of funds, twenty-five (25) dollars for each staff member, not to exceed five (5) staff per year, to SPCHs that participate in the MI/ID Supplement Program pursuant to 921 KAR 2:015.

It is important to note that PCHs are currently required by this administrative regulation to provide in-service training to their staff in a number of areas, including "methods of assisting patients to achieve maximum abilities in activities of daily living". This amendment seeks to expand upon the current ADL requirement in an effort to align with the SASA by requiring SPCHs to collaborate with an agency, such as a community mental health center, to offer basic instruction in both ADLs and IADLs to certain residents. Basic instruction in ADLs and IADLs does not require training by an occupational therapist or other licensed practitioner as this type of instruction may be provided to residents by unlicensed SPCH direct care staff. In addition, as a resource that supports SPCHs, the MI/ID training workshop will include a curriculum that covers ADL and IADL training for SPCH staff. (NOTE: KRS 194A.700 defines ADL as "normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating" and IADL as "activities to support independent living including but not limited to housekeeping, shopping, laundry, chores, transportation, and clerical assistance".)

Although the cabinet is not able to determine with accuracy how much it will cost SPCHs to comply with the actions identified under (4)(a), the cabinet does not require nor does it anticipate that SPCHs will need to hire additional staff in order to demonstrate compliance with the proposed changes.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment is primarily intended to address the interest of Kentuckians with SMI who currently reside in SPCHs and who are not opposed to transitioning into community placements. This amendment benefits SPCHs by establishing reasonable standards for licensure.

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

(a) Initially: There are no additional costs to the cabinet related to implementation of this amendment.

(b) On a continuing basis: There are no additional costs to the cabinet related to implementation of this amendment on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies will be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation

established any fees or directly or indirectly increased any fees: This amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all PCHs and SPCHs regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and licensed personal care homes.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042

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

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

(c) How much will it cost to administer this program for the first year? This amendment imposes no additional costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This amendment imposes no additional 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:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 21 C.F.R. Part 1317

(2) State compliance standards. KRS 216B.042

(3) Minimum or uniform standards contained in the federal mandate. 21 C.F.R. Part 1317 sets forth the Drug Enforcement Administration's rules for the safe disposal and destruction of damaged, expired, returned, recalled, unused, or otherwise unwanted controlled substances.

(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 requirements that are more strict than federal laws or regulations.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 45:065. Tattooing.

RELATES TO: KRS 194A.050[~~Chapter 13B~~], 211.005, 211.015, 211.025, 211.760, 383.085, 387.010, 28 C.F.R. 36.104, 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 194A.050(1), 211.760[~~(3)~~]

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfil the responsibilities vested in the cabinet. KRS 211.760(2) requires nonmedical persons who engage in or carry on any business of tattooing to register with a local health department. KRS 211.760(3) requires the cabinet[~~for Health Services~~] to promulgate administrative regulations relating to: (a) health and cleanliness of places of business; (b) sterilization of tattooing instruments and equipment; (c) procedures to prevent the spread of disease; (d) procedures to prevent tattooing of minors without the written notarized consent of a custodial parent or legal guardian; and (e) other administrative regulations as may be necessary to protect public health. This administrative regulation establishes the standards for tattooing[~~required by KRS 211.760(3)~~].

Section 1. Definitions. (1) "Antiseptic" means a substance applied to the skin that reduces the number of microorganisms.

(2) "Autoclave" means equipment sold as sterilizing equipment for medical instruments and employs steam under pressure to sterilize.

(3) "Blood" is defined by 29 C.F.R. 1910.1030[~~means human blood or any human body fluid or tissue that is visibly contaminated with blood~~].

(4) "Bloodborne pathogens" is defined by 29 C.F.R. 1910.1030[~~pathogen(s)" means the pathogenic microorganisms that are present in human blood that can cause disease in humans such as Hepatitis B (HBV), Hepatitis C (HCV), and human immunodeficiency virus (HIV)~~].

(5) "Contaminated" is defined by 29 C.F.R. 1910.1030[~~means the presence of or reasonably expected presence of blood or other potentially-infectious material in or on the surface of an item~~].

(6) "Contaminated sharps" is defined by 29 C.F.R. 1910.1030[~~means any contaminated object that can penetrate the skin such as tattoo needles and razors~~].

(7) "Contaminated waste" means any material to be disposed of that has been soiled by blood or other potentially-infectious material in the process of tattooing.

(8) "Disinfectant" means a chemical agent that destroys disease-causing pathogens or other harmful microorganisms but does not ordinarily kill bacterial spores. Approved disinfectants are:

(a) List D: the EPA's Registered Antimicrobial Products Effective Against Human HIV-1 and Hepatitis B Virus; and

(b) List E: the EPA's Registered Antimicrobial Products Effective Against Mycobacterium tuberculosis, Human HIV-1 and Hepatitis B Virus.

(9) "Hand washing" means the following process:

(a) Wetting hands and forearms with warm running water between[~~,~~] 101 degrees Fahrenheit and[~~–~~] 120 degrees Fahrenheit[~~°F~~];

(b) Applying liquid[~~antibacterial or antimicrobial~~] soap and thoroughly distributing over hands and forearms;

(c) Rubbing hands vigorously for twenty (20) seconds, covering all surfaces of the hands, forearms and fingers, paying special attention to the thumbs, backs of fingers, backs of the hands, and between the fingers;

(d) Rinsing hands and forearms thoroughly to remove residual soap; and

(e) Drying hands and forearms with paper towels dispensed from sanitary dispensers.

(10)[~~(9) "Health care professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky.~~

~~(10) "High-level disinfection" means the elimination of pathogenic microorganisms except for bacterial spores from inanimate objects, rendering them safe to handle.~~

~~(11)~~] "Instrument" means any tattooing implement that comes into contact with blood or nonintact skin such as needles, needle bars, needle tubes, or other implements used to insert pigment.

(11)[~~(12)~~] "Minor" is defined at KRS 387.010(1).

(12)[~~(13)~~] "Mobile studio" means a tattooing studio that is designed to be readily movable.

(13)[~~(14)~~] "Nonintact skin" means human skin that has an open wound from a cut, burn, rash, infection, or any other condition that has altered the skin.

(14)[~~(15)~~] "Purchased presterilized" means procedure set-ups that are sold individually packaged, processed, and marked with a sterilization lot number, and expiration date, to render them free of all microorganisms.

(15)[~~(16) "Registrant" means the individual duly authorized to engage in the business of tattooing.~~

~~(17)~~] "Registration" means the issuance of a document by the local health department to a tattoo artist authorizing the tattoo artist to engage in the business of tattooing.

(16) "Service animal" is defined by 28 C.F.R. 36.104.

(17)[~~(18) "Regulated waste" means waste as defined by the Department of Labor, OSHA, Bloodborne Pathogens Regulation, 29 C.F.R. 1910.1030 and incorporated by reference in 803 KAR 2:320.~~

~~(19) "Sanitize" means a bactericidal treatment to clean surfaces of equipment, approved by the local health department for being effective in destroying microorganisms, including pathogens, to a safe level.~~

~~(20)~~] "Sterilization" means the use of an autoclave to kill microbial life by holding instruments and equipment under steam pressure for a minimum of fifteen (15) minutes, at fifteen (15) pounds of pressure per square inch (PSI), at a temperature of 250 degrees Fahrenheit [~~°F~~] or 121 degrees Celsius[~~°C~~].

(18)[~~(21)~~] "Studio" is a facility as defined by KRS 211.760(1)(b).

(19)[~~(22)~~] "Studio certification" means the issuance of a document by the local health department to a studio owner certifying that studio, after inspection, was in compliance with the applicable provisions of this administrative regulation.

(20)[~~(23)~~] "Studio owner" means:

(a) An owner of a facility where tattooing is conducted; or

(b) A sole proprietor who performs tattooing; or

(c) A person who employs tattoo artists.

(21)[~~(24)~~] "Tattoo artist" means a person registered by the local health department to engage in tattooing.

(22) "Tattooing" is defined by KRS 211.760(1)(c).

(23)[~~(25)~~] "Temporary permit[~~studio~~]" means a permit to operate at a fixed location for[~~facility setup that operates~~] no more than seven (7) calendar days, is nontransferable, and cannot be renewed for[~~in a~~] ninety (90) days after the expiration[~~day period~~].

Section 2. Registration of Tattoo Artist. (1) [~~An applicant shall be at least eighteen (18) years of age at the time of application.~~

~~(2) Pursuant to KRS 211.760(2),~~] A person shall not act as or engage in the business of tattooing unless registered with the local health department in the district or county where the person is to tattoo.

(2) All tattooing shall be under the auspices of a Kentucky certified studio.

(3) No tattoo artist shall engage in the act of tattooing unless that person has proof of completion of a bloodborne pathogen training program compliant with 29 C.F.R. 1910.1030.

(4) The artist shall maintain documentation of completion of bloodborne pathogen training at the studio.

(5) An applicant for registration as a tattoo artist shall be at least eighteen (18) years of age at the time of application.

(6)[~~(3)~~] An applicant for registration[~~for tattoo artists~~] shall submit[~~a completed Application Form, DFS-303, incorporated by reference,~~] to the local [~~or district~~] health department in the district or county where the applicant intends to perform tattooing:

(a) A completed DFS-303 Application for Certification/Registration, incorporated by reference;

(b) Payment of $100 registration fee; and

(c) Proof of completion of approved bloodborne pathogen training as required by subsection (3) of this section.

(7)[~~(4) Pursuant to KRS 211.760(2), payment of the registration fee shall be made to the local or district health department where the applicant intends to tattoo.~~

~~(5)~~] The tattoo artist registration shall be:

(a) Mailed to the owner of the Kentucky[-]certified studio listed on the application for registration;

(b) Prominently displayed to the public in the workstation and;

(c) Nontransferable from one (1) person to another, or from one (1) district or county to another.

(8)[~~(6) All tattooing shall be under the auspices of a Kentucky-certified studio.~~

~~(7) A registrant shall post his registration document prominently at his workstation.~~

~~(8) A registration is nontransferable from one (1) person to another, or from one (1) district or county to another.~~

~~(9) Applicants for registration must be eighteen (18) years of age or older at the time of registration.~~

~~(10) Pursuant to KRS 211.760(2),~~] Registrations shall be valid for[~~expire~~] one (1) calendar year and expire on December 31st of each year.

(9) A late penalty fee of fifty (50) dollars shall be assessed on all tattoo artist certification renewal applications not received by January 30th or postmarked after January 31st each year[~~from the date of issuance~~].

Section 3. Studio Certification. (1) A person shall not engage in the business of tattooing unless the owner of the facility holds a studio certification issued by the local health department in the district or county where the person is to tattoo.

(2) A holder of a studio certification issued under this administrative regulation shall not allow persons to tattoo unless the individual is registered in accordance with Section 2 of this administrative regulation.

(3) Applications for studio certification shall be:

(a) On DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040;

(b) Submitted to the local health department in the district or county where the studio is located; and

(c) Accompanied by an annual inspection fee of:

1. $400 for the studio with one (1) to four (4) work stations; and

2. An additional fifty (50) dollars for each additional work station over four (4).

(4) A studio certification shall not be issued or renewed unless the studio has been inspected and found to be in compliance with the provisions of this administrative regulation.

(5) The studio certification shall be:

(a)[~~(3) A studio certification shall be required for each district or county in which a registrant performs any activity regulated by this administrative regulation.~~

~~(4) The studio certification shall be~~] Prominently displayed to the public in the studio; and

(b)[~~.~~

~~(5) A studio certification is~~] Nontransferable from one (1) person to another, or from one (1) location to another.

(6)[~~A holder of a studio certification issued under this administrative regulation shall not allow persons to tattoo unless registered in accordance with Section 2 of this administrative regulation.~~

~~(7) Payment of an annual inspection fee of $100 shall be made to the local health department in the district or county where the person is to tattoo.~~

~~(8) Applications for studio certification shall be submitted to the local health department on application form DFS-200, incorporated by reference.~~

~~(9)~~] The studio certification shall expire December 31st each year.

(7) A late penalty fee of $100 shall be assessed on all studio registration renewal applications not received by January 30th or postmarked after January 31st each year[~~one (1) year from the date of issuance~~].

Section 4. Studio[~~Facility~~] Requirements. (1) A studio[~~facility~~] shall:

(a) Be kept clean and in good repair;

(b) Be free of insect and rodent infestation;

(c) Store only items necessary to its operation and maintenance;

(d) Provide artificial light of at least twenty (20) foot-candles[~~,~~

~~measured at a height of thirty-six (36) inches from the floor~~];

(e) Be well ventilated;

(f) Not permit the presence of a pet or other animal in the studio, except for a service animal[~~:~~

~~1. A trained guide or assistance animal for the disabled; and~~

~~2. Fish in an aquarium in the waiting area~~];

(g) Not use a room otherwise used as living or sleeping quarters;

(h) Use a solid, self-closing door to separate living or sleeping quarters from the business operation;

(i)[~~Have an entrance allowing direct entry into the facility, except for a facility existing on the effective date of this administrative regulation which is exempt from this requirement;~~

~~(j)~~] Have convenient, clean, and sanitary toilet and hand-washing facilities for the use of clientele with liquid soap, single-use paper towels from a sanitary dispenser or air dryer, covered waste receptacle, and self-closing door;

(j)[~~(k)~~] Be organized to keep clean areas separate from contaminated areas;

(k) Have[~~(l) Use only~~] a utility sink that shall only be used to:

1. Wash[~~Clean~~] contaminated instruments; and

2. Empty mop water, without placing the mop bucket into the sink;

(l)[~~(m)~~] Use, clean, and maintain equipment according to manufacturers' recommendations;

(m)[~~(n)~~] Use an approved[~~a hard surface high-level EPA registered~~] disinfectant;

(n)[~~or~~

~~1. A solution of five and one-fourth (5.25) percent chlorine bleach, fifty (50) parts per million to 100 parts per million; and~~

~~2. A chlorine test kit to test concentration;~~

~~(o)~~] Have plumbing sized, installed, and maintained in accordance with the[~~Kentucky State Plumbing Code,~~] 815 KAR Chapter 20;

(o)[~~(p)~~] Have sufficient[~~an adequate~~] potable water supply for the needs of the studio provided from a source constructed, maintained, and operated pursuant to the applicable requirements established in 401 KAR Chapter 8[~~from:~~

~~1. A public or municipal water district, if available; or~~

~~2. A private water source approved by the Cabinet for Natural Resources and Environmental Protection, until a public water supply becomes available~~]; and

(p)[~~(q)~~] Dispose of sewage, including liquid waste, by connection to:

1. A public sewer system, if available; or

2. A private sewer system designed, constructed, and operated pursuant to the requirements of 401 KAR Chapter 5 and 902 KAR Chapter 10[~~the Cabinet for Health Services or the Cabinet for Natural Resources, until a public sewer system becomes available~~].

(2) A workstation shall:

(a) Have nonporous[~~light-colored~~], smooth, easy-to-clean floors, walls, and ceilings;

(b) Have surfaces, including counters, cabinets, chairs, and dispensers, composed of [~~light-colored,~~] smooth, nonporous material able to withstand repeated cleaning and disinfecting[~~, except for a facility existing on the effective date of this administrative regulation which is exempt from the color requirement~~];

(c) Be kept clean, organized and in good repair;

(d) 1. Have all product containers clearly labeled with common product name in English; and

2. If filling a product container from a larger bulk container, the original container shall be retained on the studio premises;

(e) Have at least sixty (60) square feet of floor space with permanent walls a minimum of four (4) feet high[~~one half (1/2) walls~~] between workstations;

(f)[~~(d)~~] Have 100 foot-candles of light at the procedure level;

(g)[~~(e)~~] Have unimpeded access to a hand sink, without opening a door;

(h)[~~(f)~~] Have a sink for each artist with hot water between 101 and[~~at least~~] 120 degrees Fahrenheit[~~°F~~] and cold water less than 101 degrees Fahrenheit[~~°F~~], delivered by a mixing faucet, operated by wrist, knee, or foot action;

1. Each sink shall be supplied with:

a. Liquid soap; and

b. Single-use paper towels dispensed from a sanitary dispenser; and

2. A hand sink shall not be used for any other purpose;

(i)[~~(g)~~] Be designated as a tattoo workstation, and shall not be used for any other purpose;

(j)[~~(h)~~] Have double bagged[~~lined~~] plastic or metal waste receptacles:

1. With or without a lid; and

2. If waste receptacle has a lid it shall be foot operated; and

(k)[~~(i)~~] Have a container for disposable sharps that:

1. Is rigid, puncture proof, and leak proof on sides and bottom;

2. Is closeable and sealable; and

3. If sealed, is leak resistant and incapable of being opened without great difficulty.

Section 5. Cleaning and Sterilization. (1) A studio[~~facility~~] may have a one (1) room or two (2) room cleaning and sterilization arrangement.

(a) A two (2) room arrangement shall have:

1. One (1) room for contaminated items, equipped with:

a. A utility sink with minimum dimensions of 18 in. x 18 in. x 12 in.;

b. A hand sink;

c.[~~,~~] A presoak container;

d. An[~~,~~] ultrasonic cleaning unit;[~~,~~] and

e. Autoclaving packaging materials; and

2. A second room for autoclave sterilization of instruments and equipment.

(b) A one (1) room cleaning and sterilization process shall be arranged to provide two (2) distinct areas.

1. Nonporous barriers may be utilized to delineate the two (2) distinct areas.

2.[~~The ultrasonic unit shall be as far away as possible from the autoclave to prevent contamination of sterile instruments, equipment, or other items.~~] The cleaning area shall be equipped in accordance with paragraph (a) subparagraph 1 of this section.

3. The ultrasonic unit shall be as far away as possible from the autoclave to prevent contamination of sterile instruments, equipment or other items[~~with a utility sink with minimum dimensions of 18 in. x 18 in. x 12 in., a presoak container, ultrasonic cleaning unit, and autoclaving packaging materials. Nonporous barriers may be utilized to delineate the two (2) distinct areas~~].

(2) All instruments shall be disposable or be made of surgical implant stainless steel and shall not have rubber gripping on the handles.

(3) Instruments shall be processed as follows:

(a) Soak contaminated reusable[~~used~~] instruments in a covered container of cool water with or without detergent until ready to be cleaned and sterilized;

(b) Wash hands and forearms in accordance with Section 1(9) of this administrative regulation;

(c) Use disposable, single-use gloves, such as examination or surgical gloves;

(d)[~~(c)~~] Prepare the ultrasonic cleaner according to manufacturer's instructions;

(e)[~~(d)~~] Take instruments apart and rinse in warm water;

(f)[~~(e)~~] Load the ultrasonic cleaner and process according to manufacturer's recommendations, disposing of the ultrasonic cleaner liquid after each use;

(g) Wash hands and forearms in accordance with Section 1(9) of this administrative regulation;

(h)[~~(f)~~] Wearing examination gloves, remove instruments from the ultrasonic cleaner, rinse with clean water,[~~and dry with a clean, lint-free towel, or~~] allow to air dry; and

(i)[~~(g)~~] Store cleaned instruments in a labeled, covered, nonporous container until packaged for sterilization.

(4) Autoclave[~~Sterilization~~] equipment. Equipment used to sterilize instruments shall meet the following requirements:

(a) The equipment was sold as sterilizing equipment for

medical instruments; [~~and~~]

(b) The equipment is used, cleaned, and maintained to manufacturer's instructions; and

(c) The equipment meets the minimum requirements for sterilization[~~in the definition of "sterilization"~~].

(5)(a)[~~Needles or other~~] Reusable instruments placed in contact with skin that is tattooed shall be cleaned and sterilized;[~~.~~]

(b) Disinfection shall not be used in place of cleaning and sterilization; and[~~.~~]

(c) Liquid sterilants shall not be used for sterilization of reusable instruments.

(6) Instrument sterilization. Instruments that touch nonintact skin, shall be sterilized as follows:

(a) Wash hands and forearms in accordance with Section 1(9) of this administrative regulation;

(b) Use clean disposable, single-use surgical or examination gloves;

(c)[~~(b)~~] Package cleaned instruments individually in:

1.[~~paper or plastic, or~~] Paper-and-plastic peel-pack with color change indicator[~~, peel-pack(s) with color (heat) change indicator(s)~~]; or

2. Package as set-ups with color change indicator;

(d)[~~(c)~~] Label with content, date, lot number, and preparer's initials;

(e)[~~(d)~~] Load the sterilizer and process according to the manufacturer's directions;

(f)[(e)] Remove the items from autoclave only when completely[~~cool and~~] dry and cool;

(g)[~~(f)~~] Store the items in a nonporous, clean, dry, labeled container, cabinet or other place that is protected from dust and contamination; and

(h)1.[~~(g)~~] Sterilized instruments shall be resterilized at intervals of no more than six (6) months from the date of the last sterilization; and

2. New packaging shall be used when instruments are resterilized.

(7) Sterilization equipment monitoring.

(a) Sterilization equipment shall be tested:

1. During the initial installation;

2.[~~,~~] After any major repair;[~~,~~] and

3. At least monthly by using a commercial biological monitoring system; and

(b) Biological indicator test results for each sterilization unit used in the studio shall be kept on site, and made available for inspection at time of inspection; and

(c) Sterilization monitoring shall be noted on sterilizer log.

(8) Sterilizer recordkeeping. A sterilizer log system shall be maintained for each sterilizer in the studio. For each sterilization cycle the following information shall be documented:

(a) Date of load;

(b) Lot number;

(c) Preparer's[~~Practitioner's~~] name;

(d) The general contents of the load;

(e) The exposure time and temperature or the sterilizer recording chart or tape; and

(f) The results of the chemical indicator.

Section 6. Studio Owner Responsibilities. The owner of a certified studio shall:

(1) Exclude, and report to the local or district health department, any tattoo artist who is:

(a)[~~while~~] Infected with a disease in a communicable form that can be transmitted by blood;

(b)[~~or who is~~] A carrier of organisms that cause disease;

(c)[~~or while~~] Infected with a boil, an infected wound;[~~,~~] or

(d) Diagnosed with an acute respiratory infection;

(2) Report any accident involving exposure to body fluids to the local or district health department;

(3) Receive, review and distribute tattoo artist registrations issued for employees of the certified studio. If the artist is no longer employed by the certified studio, the registration shall be returned to the district or local health department where the certified studio is located;

(4)[~~(3) Continuously~~] Maintain a record of all persons performing any activity within the studio that is regulated by the cabinet. The record shall include at a minimum the following information:

(a) Full name;

(b) Date of birth;

(c) Home address;

(d)[~~Home~~] Phone number;

(e) Email address if available;

(f) Photograph of tattoo artist; and

(g) Complete description of all tattooing procedures performed by the tattoo artist;

(5)[~~(4)~~] Maintain a current copy of this administrative regulation at the studio for use by tattoo artists;

(6)[~~(5)~~] Maintain a minimum of twenty-four (24) sets of sterilized needles and tubes for each artist;

(7)[~~(6)~~] Not resterilize or reuse single-use, disposable components; and

(8)[~~(7)~~] If presterilized, disposable instruments are utilized, the following records shall be maintained[~~in accordance with Section 8(6) of this administrative regulation~~] and[~~shall be~~] made available at all times to the local health department:

(a) An accurate inventory of all purchased presterilized instruments by name with the date purchased and the quantity on hand; and

(b) Invoices for the purchase of all purchased presterilized instruments.

Section 7. Tattooing of Minors[~~Client Restrictions~~]. (1) No person shall perform any tattoo procedure on a minor without parental consent.

(2) Minors shall be at least 16 years old with custodial parent or legal guardian consent prior to tattooing.

(3) Consent shall be provided by:

1. A written notarized statement that contains[~~consent, with~~] an official seal or assigned identification of the notary; or

2. The custodial parent or legal guardian present during the tattoo procedure.

(4) The notarized statement shall contain:

(a) The printed name of the custodial parent or legal guardian;

(b) The government issued photo identification number of the custodial parent or legal guardian;

(c) The address and phone number of the custodial parent or legal guardian;

(d) The printed name of the minor child;

(e) The date of birth of the minor child;

(f) The government issued photo identification number of the minor child, if applicable;

(g) A statement that the custodial parent or legal guardian is fully aware of the tattoo procedure and gives their consent for the procedure to be performed;

(h) The signature of the custodial parent or legal guardian; and

(i) The date of the signature of the custodial parent or legal guardian.

(5) The custodial parent or legal guardian present during the tattoo procedure shall provide a government issued photo identification.

(6) The custodial parent or legal guardian, and minor client shall complete the attestation requirements of Section 8(3)(h) of this administrative regulation[~~and with the signature of a custodial parent or legal guardian, shall be obtained for all minors prior to application of a tattoo~~.

~~(2) Tattooing shall not be applied on skin which has a rash, pimples, evidence of infection, open lesions, mole, sunburn, or manifests any evidence of unhealthy conditions without written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure~~].

Section 8. Client Information and Records. (1) Before receiving a tattoo, the client shall be provided written information that tattooing poses a risk of infection, that tattooing is permanent and that removal of a tattoo may leave scars.

(2) Before the application of a tattoo, the client shall be

provided [~~written and~~] verbal aftercare instructions that includes the following information:

(a) Information on the care of the site of the tattoo;

(b) Instructions on possible side effects;

(c) Information on any restrictions;

(d) Information on signs and symptoms of infection; and

(e) Instructions to consult a physician if signs and symptoms of infection such as fever, excessive swelling, excessive redness, or drainage occur.

(3) A record of all clients who have received any tattoos shall be kept by the studio owner. The record shall include the following information:

(a) Studio name and registration number;

(b) The date the procedure was performed;

(c) Client's name, date of birth, address, and telephone number;

(d)1. Copy of client's government issued photo ID, if applicable; or

2. Copy of custodial parent or legal guardian's government issued photo ID;

(e) Name of the tattoo artist who performed the procedure[~~procedure(s)~~];

(f) The type, location and description of the procedure;[~~and~~]

(g) The lot number of instruments and inks used; and

(h) Client's attestation[~~attestment~~] to the fact that the client is:

1. Not intoxicated or under the influence of drugs or alcohol;

2. Not pregnant; and

3. Not currently taking medications such as anticoagulants that thin the blood or interfere with blood clotting[~~with signature~~].

(4) Records of each client shall be typed or printed in ink prior to any procedure being performed.

(5)(a) All records shall be maintained [~~in a bound log~~] for two (2) [~~five (5)~~] years.

(b)[~~The current calendar year~~] Client, consent and other required records shall be kept at the certified studio and shall be made readily available to inspectors. [~~All records for the previous four (4) years may be maintained off site and shall be made readily available upon request of the cabinet, district or local health department.~~]

Section 9. Disposal of Contaminated Wastes. All wastes produced during the process of tattooing shall be separated for disposal into two (2)[~~three (3)~~] classifications as follows:

(1) Contaminated sharps shall be disposed of by using a licensed medical waste disposal company.

(2)[~~Regulated waste, as defined by the Department of Labor, Occupational Safety and Health Administration, shall be disposed of in accordance with the bloodborne pathogens regulation 19 C.F.R. 1910.1030 as adopted in Kentucky by 803 KAR 2:320.~~

~~(3)~~] Contaminated waste[~~, other than contaminated sharps and regulated waste,~~] shall be sprayed with an approved disinfectant[~~a dilution of five and one-fourth (5.25) chlorine bleach, with a range of fifty (50) parts per million to 100 parts per million~~], double bagged, securely tied and disposed of daily in a trash container that prevents unauthorized access. This material shall be disposed of in an approved site by a general trash hauler.

Section 10. Standard Operating Procedures for Tattooing. (1) Tattooing shall not be applied on skin which has a rash, pimples, evidence of infection, open lesions, mole, sunburn, or manifests any evidence of unhealthy conditions without written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure.

(2) Tattooing of scarred skin is prohibited.

(3) The tattoo artist shall follow the procedures listed in this section in preparation for tattooing:

(a)[~~(1)~~] The tattoo artist and the client shall not eat, drink, use tobacco products, an electronic cigarette, or other vapor producing product[~~smoke~~] in the workstation.

(b)[~~(2)~~] The tattoo artist shall wash hands and forearms according to Section 1(9)[~~(8)~~] of this administrative regulation prior to and after every procedure.

(c)[~~(3)~~] The tattoo artist shall wear new clean disposable examination gloves for every client. If a glove is pierced, torn, contaminated in any way, or if there is an interruption in the application of the tattoo, both gloves shall be removed immediately,[~~and~~] discarded, hands and forearms washed in accordance with Section 1(9) of this administrative regulation and new, clean examination gloves used.

(d)[~~(4)~~] The tattoo artist shall use a new [~~or~~] disposable lap cloth, drape, or apron for each client. All lap cloths, drapes and aprons shall be stored in a closed cabinet or container until used.

(e)[~~(5)~~] The tattoo artist shall wear clean clothing.[~~Shirts shall have short sleeves, pants shall be to the ankle in length, and feet shall be completely enclosed in shoes.~~]

(4)[~~(6)~~] All instruments, equipment and items to be used in the procedure shall be placed on a disposable, plastic backed towel.

(5)[~~(7)~~] All inks, dyes, and pigments used in a procedure shall be:

(a) Nontoxic;

(b) Dispensed from containers in a manner to prevent contamination of the unused portion in the supply bottle; and

(c)[~~then~~] Discarded:

1. After the procedure; or

2. When the original container label becomes unreadable.

(6) Inks, dyes, and pigments transferred from bulk containers must be labeled with:

(a) Manufacturer name;

(b) Lot number; and

(c) A statement of nontoxicity.

(7) All devices used to apply inks, dyes, or pigments shall be designed to prevent backflow of inks or pigments into the machine.

(8) If a workstation rinse cup is used,[~~alone or in an ultrasonic cleaner,~~] a fresh cup shall be used for each client[~~,~~] and discarded immediately upon completion of the procedure.

(9) All single-use ointment tubes, applicators and supplies placed on the plastic backed towel shall be discarded immediately after use.

(10)[~~Inks, dyes or pigments that are prepared by the tattoo artist shall be nontoxic.~~

~~(11)~~] Tattoo needles shall be used once and discarded.[~~If the needlebar is reused, the needlebar shall be cleaned and sterilized before the needles are removed.~~]

(11)[~~(12)~~] If the tattoo artist uses any reusable components, autoclave[~~sterilization~~] equipment[~~meeting the requirements in the definition of "sterilization"~~] shall be required.

(12)[~~(13) All devices used to apply pigments shall be designed to prevent backflow of pigments into the machine.~~

~~(14) Position~~] The sharps container and waste receptacle shall be positioned to be within easy reach and in a manner to prevent contamination.

Section 11. Application of the Tattoo. The tattoo artist shall use the procedure in this section when applying a tattoo:

(1) Disinfect the chair or table and tray[~~procedure area and lay out plastic film or a clean, disposable plastic backed towel~~].

(2)[~~Wash hands and forearms in accordance with Section 1(8) of this administrative regulation.~~

~~(3)~~] Position the client [~~comfortably~~].

(3)[~~(4)~~] Arrange all instruments and supplies to be used in the procedure on plastic film or on a clean, disposable plastic backed towel within easy reach.

(4)[~~(5)~~] Wash hands and forearms in accordance with Section 1(9)[~~(8)~~] of this administrative regulation, and use new, clean examination gloves.

(5)[~~(6)~~] Gently clean the client's skin with soap and water and apply an antiseptic that is appropriate for the area where the tattoo is to be applied. If shaving is necessary, use a new[anew], single-use disposable razor.

(6)[~~(7)~~] Acetate or other reusable stencils shall not be used. Place the design on the skin by one (1) of the following methods:

(a) Free-hand drawing using a new disposable marker; or

(b) Apply a single-use hectographic or tissue stencil using an[~~antimicrobial soap or other~~] approved product dispensed from a container in a manner that does not contaminate the unused portion.

(7)[~~(8)~~] Remove gloves, wash hands in accordance with Section 1(9)[~~(8)~~] of this administrative regulation, and use new clean examination gloves.

(8)[~~(9)~~] Open sterile needles in front of the client and place them into the tattoo machine without touching the end of the needles.

(9)[~~(10)~~] Apply the tattoo.

(10)[~~(11)~~] Apply a thin layer of suitable[~~antibiotic~~] cream using a swab or cotton ball and if appropriate, cover the area with a suitable nonstick dressing that is held in place with suitable skin tape. Plastic film shall not be used.

(11)[~~(12)~~] When the tattooing is complete, the tattoo artist shall answer any questions and provide client with[~~written~~] instructions regarding the tattoo and aftercare.

(12)[~~(13)~~] Immediately after the client leaves the workstation, the tattoo artist shall break down the workstation, properly dispose of any sharps, soak any reusable instruments for later cleaning, and clean and disinfect any surface that may have become contaminated.

Section 12. Standard Operating Procedures for a Mobile Studio. (1) Applications for mobile studio certification shall be:

(a) On DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040;

(b) Submitted to the local health department in the district or county where the mobile studio is located; and

(c) Accompanied by a fee of:

1. $400 for the studio with one (1) to four (4) work stations; and

2. An additional fifty (50) dollars each additional work station over four (4)[~~The mobile studio shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees~~].

(2) If not currently registered in accordance with Section 2(6) of this administrative regulation, the tattoo artist shall be registered with the local health department in each district or county where the mobile studio is operated, and pay the appropriate fees.

(3) The mobile studio shall be used exclusively for performing tattooing. Habitation, cooking, pets and animals except service animals shall not be allowed in the mobile studio.

(4) The mobile studio shall:

(a) Meet the sterilization, operating, clientele requirements, and tattoo performance procedures[~~same requirements~~] as a stationary studio; and

(b) Be inspected by the local health department prior to operation.[~~(3) All sewage shall be stored in a storage tank with a capacity at least 100 percent greater than the capacity of the on-board potable water, and shall be discharged into a public sewage system.~~]

(5)[~~(4)~~] Any on-board restroom shall be supplied with hot running water at least 120 degrees Fahrenheit[~~□F~~] and cold running water less than 101 degrees Fahrenheit[~~□F as in subsection (6) of this section~~] and shall be supplied with toilet paper, liquid[~~antibacterial or antimicrobial~~] soap, [~~and~~] single-use paper towels from a sanitary dispenser, covered waste receptacle, and a self-closing door.

(6)[~~(5)~~] If the vehicle lacks an on-board restroom, the owner shall not operate the studio unless it is within 200 feet of a public restroom with hand-washing facilities.

(7)[~~(6)~~] All plumbing shall comply with the requirements of the [~~State Plumbing Code,~~] 815 KAR Chapter 20.

(8)(a)[~~(7)~~] Each mobile studio shall have a potable water system under pressure.

(b) The system shall be of sufficient capability to furnish enough hot and cold water for hand washing, instrument cleaning, and sanitization pursuant to the requirements of this administrative regulation.

(c) The water inlet shall be:

1. Located in a position that it will not be contaminated by waste discharge, road dust, oil, or grease; and

2. [~~, and it shall be~~] Provided with a transition connection of a size of or type that will prevent its use for any other service.

(d) All water distribution pipes or tubing shall be constructed and installed in accordance with [~~the State Plumbing Code,~~] 815 KAR Chapter 20.

(e) Hoses, if used, shall bear the National Sanitation Foundation potable water (NSF-pw) mark and be fitted[~~be food grade,~~] with a backflow prevention device.

(9)(a)[~~(8)~~] Each mobile studio shall have a permanently[-]installed retention tank that is at least fifty (50)[~~100~~] percent larger than the potable water supply tank.

(b) Wastewater shall be discharged into a public sewage system.

(c) Liquid wastewater shall not be discharged from the retention tank if the mobile studio is in motion.

(d) All connections on the vehicle for servicing the mobile studio waste disposal shall be of a different size or type than those used for supplying potable water to the mobile studio.

(e) The wastewater connection shall be located below the water connection to preclude contamination of the potable water system.[~~(9) The vehicle shall be used exclusively for performing tattooing. Habitation, cooking, pets and animals shall not be allowed in the mobile studio.~~]

Section 13. Standard Operating Procedures for a Temporary Permit[~~Studio~~]. (1) The event organizer or studio owner for the event shall submit to the local health department in the district or county where the temporary studio is to be located:

(a) A DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040, accompanied by a $250 registration fee for each workstation;

(b) A layout of the event floor showing where the tattoo artists will be tattooing;

(c) A list of all tattoo artists participating in the event that includes:

1. Name of tattoo artist;

2. Artist date of birth;

3. Home address;

4. Telephone number;

5. Email address;

6. Proof of artist completion of blood-borne pathogen training;

7. Studio name;

8. Studio address;

9. Studio owner name;

10. Description of procedures to be performed at the event; and

(d) A copy of the client consent form to be used during the event.

(2) The event organizer or studio owner for the event shall:

(a) Be responsible for ensuring that the event is run in a manner that is safe for the tattoo artists and the general public;

(b) Provide a separate cleaning and sterilization room as a backup, unless only pre-sterilized disposables are used for the event;

(c) Provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event;

(d) Arrange for pick-up and disposal of contaminated waste in accordance with Section 9 of this administrative regulation; and

(e) Ensure the cleaning and sterilization room, if used, is disinfected at the close of the event.

(3) Prior to the event,[~~The event organizer or studio owner shall provide a list of all tattoo artists participating in the event to the local health department in the district or county where the event is being held that includes the following information for each participating tattoo artist:~~

~~(a) Name of exhibitor/tattoo artist;~~

~~(b) Date of birth;~~

~~(c) Home address;~~

~~(d) Business name;~~

~~(e) Business address;~~

~~(f) Home and work telephone numbers;~~

~~(g) Email address if available;~~

~~(h) Description of procedures to be performed at the event; and~~

~~(i) Copy of current tattoo artist's registration.~~

~~(2) The event coordinator or studio owner shall provide a layout of the event floor to the local health department in the district or county where the event is being held showing where the tattoo~~

~~artists will be tattooing.~~

~~(3) Each participant who performs tattooing shall bring enough presterilized instruments and supplies to last for the whole event.~~

~~(4) The event coordinator or studio owner shall provide a separate cleaning and sterilization room as a back up for use by participants who have used all of the presterilized instruments and supplies that were brought to the event. If used, the cleaning and sterilization room shall be disinfected at the close of the event. Presterilized disposable instruments and equipment shall not be reused.~~

~~(5) The event coordinator or studio owner shall provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event.~~

~~(6) The event coordinator or studio owner shall provide for pick-up and disposal of contaminated waste in accordance with Section 9 of this administrative regulation.~~

~~(7) Temporary studios located at locations such as fairs, festivals, or flea markets, shall comply with all requirements for a certified studio in accordance with Sections 1 through 11 of this administrative regulation in their entirety.~~]

~~(8)~~] the tattoo artist participating in the event[~~and the studio~~] shall:

(a) Be registered in accordance of Section 2 of this administrative regulation with the local health department in the[~~each~~] district or county where[~~in which~~] the temporary studio is operated;

(b) Submit a $100 registration fee; and

(c)1. Ensure an adequate supply of presterilized instruments and supplies are available to last the length of the event; or

2. Provide certification of an autoclave negative spore test completed within thirty (30) days prior to the event if tattooing with reusable instruments.

(4)[~~, and pay the appropriate fees.~~

~~(9)~~] The temporary workstation shall meet the following minimum conditions:

(a) Be at least 6[~~10~~] ft. x 10 ft., and be constructed in a manner to separate the tattoo artist from the public in such a way as to protect the procedure area from contamination, and to prevent accidental exposure of the public to potentially-infectious materials created during tattooing;

(b)1. Have a floor and sides that are smooth, nonporous and easy to clean; or

2. Be covered in plastic if the floor and sides are not smooth, nonporous and easy to clean.

(c) Have at least 100 foot-candles of light available at the procedure level[~~where the tattoo, body piercing or the application of permanent makeup is conducted~~];

(d) Be equipped with a hand-wash facility that[~~. A hand-wash facility at the minimum~~] shall be:

1. A portable handwashing station; or

2. A minimum of a one (1) gallon container with a lever-type spigot, filled with warm potable water that:

a. Is placed at least thirty (30) inches off the floor to allow for easy use;

b. Supplied with a bucket to catch the wastewater; and

c. Has a minimum reserve of five (5) gallons warm potable water available.

3. Supplied with[~~consist of~~] liquid[~~antibacterial or antimicrobial~~] soap; and

4.[~~,~~] Single-use paper towels from a sanitary dispenser.[~~, and an insulated five (5) gallon container with a lever-type spigot, filled with warm potable water 101 - 120°F, and a bucket to catch the wastewater. The water container shall be placed at least thirty (30) inches off the floor to allow for easy use, and shall be filled regularly to ensure an adequate supply of warm water for hand washing;~~]

(e) Wastewater shall be disposed of into a public sewerage system, if available. If a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated pursuant to the requirements of the [~~Cabinet for Natural Resources and Environmental Protection administrative regulations~~] 401 KAR Chapter 5 and [~~the Cabinet for Health Services administrative regulations~~] 902 KAR Chapter 10[~~; and~~

~~(f) Shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment, pigment supply bottles, and any other item that must be protected to prevent cross-contamination~~].

Section 14. Inspection of Studios. (1) At least twice per year, the cabinet,[~~or the~~] local or district health department shall inspect each studio and shall make as many additional inspections and re-inspections as are necessary for the enforcement of this administrative regulation.

(2)(a) The cabinet,[~~or the~~] local or district health department inspector shall record the inspection findings[~~in writing~~] on an inspection report form DFS-342, incorporated by reference[~~and which shall constitute a written notice~~].

(b) The inspection report form shall:

1. Summarize the requirements of this administrative regulation; and[~~shall~~]

2. Set forth a weighted point value for each requirement.

(3) The rating score of the studio shall be the total of the weighted point value for all violations, subtracted from 100.

(4) The inspector shall provide the original[~~of the~~] inspection report to the certificate holder or his designee. The findings shall:

(a) Set forth the specific violations if found;

(b) Establish a[~~specific and reasonable~~] period of time for the correction of the violations specified, pursuant to the following provisions:

1. If the rating score of the studio is eighty-five (85) or more, all violations of one (1) and two (2) point weighted items shall be corrected[~~as soon as possible and~~] before the next routine inspection.

2. If the rating score of the studio is at least seventy (70) but not more than eighty-four (84), all violations of one (1) and two (2) point weighted items shall be corrected [~~as soon as possible and~~] within a period not to exceed thirty (30) days.

3. Regardless of the rating score of the studio, all violations of three (3) or four (4) point weighted items shall be corrected within [~~a time specified by the cabinet and within~~] ten (10) days.

4. If the rating score of the studio is less than seventy (70), the studio shall be issued a notice of intent to suspend the studio certification. The certification shall be suspended within ten (10) days after receipt of the notice unless a written request to an administrative conference is filed with the local or district health department within the ten (10) day period.

(5)[~~(3)~~] Notices provided for under this administrative regulation shall be deemed to have been properly served if the original of the inspection report form or other notice has been delivered personally to the certificate holder or person in charge, or the notice has been sent by registered or certified mail, return receipt requested, to the last known address of the certificate holder.

(6)[~~(4)~~] Failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in suspension or revocation of the certificate or the individual's registration.

(7)[~~(5)~~] Temporary and mobile studios shall correct any violative conditions within twenty-four (24) hours.

Section 15. Suspension of Studio Certificates or Individual's Registration. (1) The studio certificate or the individual's registration shall be suspended immediately upon notice to the holder if:

(a) The cabinet,[~~or the~~] local or district health department has reason to believe that an imminent public health hazard exists;

(b)[~~, if~~] The studio certificate holder or registered individual has interfered with the cabinet,[~~or the~~] local or district health department in the performance of its duties; or

(c)[~~if~~] An inspection of a studio reveals a rating score of less than sixty (60).

(2)[~~, the certificate or the individual's registration shall be suspended immediately upon notice to the holder. If this occurs,~~] The studio certificate holder or individual registration holder whose certificate or registration has been suspended may request an administrative conference in accordance with 902 KAR 1:400[~~Section 19(2) of this administrative regulation. The~~

~~conference shall be granted as soon as practical and before ten (10) days~~.

~~(2) In all other instances of a violation of the provisions of this administrative regulation, the cabinet or the local or district health department shall serve on the certificate holder or registered individual a written notice specifying the violation and shall afford the certificate holder or registered individual a reasonable opportunity for correction~~].

(3) The cabinet,[~~or the~~] local or district health department shall notify, in writing, the studio certificate holder or registered individual who fails to comply with a written notice issued under the provisions of this section, that the studio certificate or individual's registration shall be suspended at the end of ten (10) days following service of this notice unless a request for an administrative conference is requested.

(4)[~~Section 16. Reinstatement of Suspended Certificates or an Individual's Registration.~~] A person whose studio certificate or individual registration has been suspended may, at any time, make application for[~~a reinspection for the purpose of~~] reinstatement of the certification or registration in accordance with 902 KAR 1:400 Section 2[~~The application for reinstatement shall be submitted on Form DFS-215, provided by the cabinet. Within ten (10) days following receipt of an Application for Reinstatement, the cabinet or the local or district health department shall make a reinspection. If the applicant is found to comply with the requirements of this administrative regulation, the certificate or individual's registration shall be reinstated~~].

Section 16.[~~17.~~] Revocation of a Studio Certificate or an Individual's Registration. (1) For serious or repeated violations of any of the requirements of this administrative regulation, or for interference with agents of the cabinet,[~~or the~~] local or district health department in the performance of its duties, a studio certificate or an individual's registration may be permanently revoked.

(2) Prior to this action, the cabinet,[~~or the~~] local or district health department shall notify the studio certificate holder or registered individual, in writing, stating the reasons for which the studio certification or individual registration is subject to revocation and advising that the studio certification or individual registration shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative conference is filed with the cabinet by the certification or registration holder within the ten (10) day period.

(3) A studio certification or individual registration may be suspended for cause pending its revocation or an administrative conference relative to the revocation.

Section 17.[~~18.~~] Appeals. (1) A studio certificate or individual registration holder or an applicant aggrieved by a decision of the cabinet,[~~or~~] local or district health department may request[~~either~~] an administrative hearing in accordance with 902 KAR 1:400 [~~conference or an administrative hearing. The request shall be submitted within ten (10) days of receipt of a written notice of:~~

~~(a) A violation;~~

~~(b) Suspension or revocation of a certificate or individual's registration;~~

~~(c) Denial to renew a certificate or individual's registration; or~~

~~(d) Denial of an initial application for a certificate or individual's registration.~~

~~(2) Administrative conference. An administrative conference shall be conducted in accordance with 902 KAR 1:400, Administrative hearings, with the following exceptions:~~

~~(a) The administrative conference shall be less formal than an administrative hearing;~~

~~(b) The matter at issue shall be discussed before a representative of the Department for Public Health or the local or district health department; and~~

~~(c) Participants in the discussion shall be:~~

~~1. An agent of the cabinet or the local or district health department; and~~

~~2. The certificate holder, individual registered, or the applicant;~~

~~(d) A request for a conference shall be:~~

~~1. In writing; and~~

~~2. Submitted or addressed to the local or district health department that issued or gave notice of the violation, suspension, or revocation; and~~

~~(e) A certificate or registration holder or an applicant who does not agree with final ruling of the conference report issued by the local or district health department may appeal by requesting an administrative hearing.~~

~~(3) Administrative hearing.~~

~~(a) Conduct of the administrative hearing shall be pursuant to 902 KAR 1:400, Administrative hearings and KRS Chapter 13B; and~~

~~(b) A request for an administrative hearing shall be:~~

~~1. In writing;~~

~~2. Submitted or addressed to the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621; and~~

~~3. Accompanied by a copy of the notice of violation, notice to suspend or revoke, letter denying an application, or the conference hearing report~~].

Section 18.[~~19.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a)[~~DFS-200, Application for Studio Certification (Rev. 7-01);~~

~~(b)~~] DFS-303, Application for Certification/Registration To: (Rev. 2/19[~~7-03~~]); and

(b)[~~(c)~~] DFS-342, Tattoo and Body Piercing[~~,~~] Studio Inspection Report (Rev. 2/19[~~6-03~~])[~~;~~

~~(d) DFS-214, Enforcement Notice (Rev. 8-96);~~

~~(e) DFS-212, Request for Conference (Rev. 10-96);~~

~~(f) DFS-213, Notice of Conference (Rev. 8-96); and~~

~~(g) DFS-215, Application for Reinstatement (Rev. 2-95)~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 8, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This

administrative regulation establishes requirements for the: registration and certification process for a tattoo studio; registration process for an individual performing tattooing; studio owners responsibilities; studio and workstation design, and plumbing requirements for the studio; sanitation of the studio and sterilization of tattooing equipment; tattooing procedures, including the requirements for tattooing a minor; registration and operating procedures for a mobile or temporary tattoo studio; studio inspection process; and opportunity for an administrative hearing should a studio certificate or individual registration be subject to suspension or revocation.

(b) The necessity of this administrative regulation: The cabinet is authorized to promulgate administrative regulations regarding the health and cleanliness of places of business for tattooing and body piercing; the sterilization of equipment for tattooing and body piercing; procedures that will prevent the spread of disease or infection during a tattoo or body piercing procedure; procedures for performing tattooing or body piercing on minors with parental consent; and any other regulation that may be necessary to protect the public and properly administer the program requirements. This administrative regulation establishes the requirements required by KRS 211.760.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.760 requires the registration of nonmedical personnel who engage in the business of tattooing or body piercing, or both. This administrative regulation outlines the registration process for tattoo studios and for individuals who engage in the act of tattooing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for operating a tattoo studio.

(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 amends several defined terms for clarity, and removes terms not used in the body of the regulation; adds the requirement that an individual registering as a tattoo artist complete bloodborne pathogen training; outlines the studio registration process for a permanent studio, a mobile studio and a temporary studio; updates the disinfection and equipment sterilization process; and further clarifies requirements for a notarized statement when a minor is seeking a tattoo without a parent or legal guardian present. The fees associated with operating a tattoo studio, and the individual registration have been added to this administrative regulation. The local health department will need to be notified should there be an incident or accident that results in exposure to blood or body fluid.

(b) The necessity of the amendment to this administrative regulation: House Bill 327, enacted during the 2018 legislative session, amended KRS 211.760 by removing the registration fee. This amendment is necessary to add the fee structure for tattoo studio and tattoo artist registration to this administrative regulation. This amendment also includes a late payment penalty fee for both the studio and individual registration should the registration not be renewed by the expiration date or postmarked beyond thirty (30) days after the expiration date. Completion of a bloodborne pathogen training is an industry standard for any individual who is employed in an occupation where contact with blood or body fluids is likely. Because the act of tattooing poses a risk of contact to blood or body fluids this training is necessary to protect the individual performing the tattooing and the public. Providing further details to be contained in the notarized statement of parental consent allowed by statute helps to ensure the parent or legal guardian is fully aware of, and gives consent for, the procedure. In addition, requiring additional information regarding the parent or legal guardians identification helps protect the tattoo artist and studio owner should someone attempt to falsify their authority to provide consent for the procedure.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment helps to prevent the spread of disease or infection that could result during a tattooing procedure, and protect the public health, as authorized by KRS 211.760.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in protecting the health of individuals seeking a tattoo as authorized by KRS 211.760 by updating the disinfecting and sterilization processes, ensuring all tattoo artists are properly registered and have completed bloodborne pathogen training, and requiring health department notification should there be an incident or accident where exposure to blood or body fluids is likely.

(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 432 tattoo studios, 1337 tattoo artists, and 120 local or sixty-one (61) district health departments.

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Individuals currently registered as a tattoo artist will need to obtain a bloodborne pathogen training that meets the required standard prior to the renewal of their registration. Studio owners will need to ensure each individual working in the studio completes the required training in a timely manner. Studio owners will need to be familiar with the changes to the studio and workstation design, the sanitation and plumbing requirements, as well as the disinfection and sterilization requirements in order to remain in compliance with this regulation. Event organizers who want to offer tattooing during the event will need to be familiar with the applicable sections of this regulation to ensure compliance. Local and district health department staff will need to ensure receipt of the bloodborne pathogen training documentation from the tattoo artist who is renewing their registration, and any new artist applying for registration. Local and district health departments may elect to offer the required bloodborne pathogen training. A health department offering training will need to ensure the training is in compliance with 29 C.F.R. 1910.1030. Local and district health department inspectors will need to be familiar with the changes in this administrative regulation and the inspection form.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The current fee for registration for both the individual and the studio is twenty (20) dollars. There has been no registration fee increase since this regulation was enacted in 1992 and is necessary to cover the cost of inspections. The proposed fee for a studio is being raised to $400 for a studio with one (1) to four (4) workstations and an additional fifty (50) dollars for each additional workstation. This will result in an increased cost of $380 or more for the studio. The current fee for registration for the individual tattoo artist is also twenty (20) dollars. This fee is being increased to $100, which will result in an eighty (80) dollar increase for each individual. The fee for a mobile studio is $400 for one (1) to (4) workstations and an additional fifty (50) dollars for each additional workstation. This is consistent with the fee for a brick and mortar establishment. The fee for a temporary studio is $250 per each workstation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All tattoo artists and studio owners will be operating under a uniform standard for tattooing. Artists will be trained in the proper procedures necessary to limit their exposure to bloodborne pathogens. Local health departments will also have a uniform standard available for conducting onsite inspections.

(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 costs to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional costs to implement this administrative regulation on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Agency funds and revenue received from permitting and inspection fees continue to be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in funding is not necessary to implement this administrative regulation. The fees associated with this administrative regulation are being increased. The current registration fee of twenty (20) dollars is inadequate to offset the costs associated with operating a program for the registration and inspection of tattoo artist and tattoo studios.

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

This amendment increases the fees associated with operating a tattoo studio and the individual registration of a tattoo artist.

The administrative cost to the cabinet is approximately $150 per hour for environmental health inspectors for tattoo studios. This cost includes the salary of the inspector, fiscal year 2018 Kentucky Employee Retirement System (KERS) and Federal Insurance Contributions Act (FICA) contributions, and health and life insurance cost.

The number of workstations has an impact on the length of time required to conduct an inspection. The table below outlines the proposed change in the fee structure for tattoo studios.

	One (1) to four (4) workstations	More than four (4) workstations	Mobile studio	Temporary studio with one (1) to four (4) workstations	Temporary studio with more than four (4) workstations
Avg. Hourly Rate (including FY-18 KERS, FICA, health & life, indirect)	$150	$150	$150	$150	$150
Number of hours for inspection (not including travel time)	2	Increase by 0.5 hour for each additional workstation	1.5	2	Increase by 0.5 hour for each additional workstation
Minimum number of routine inspections	2	2	1	1	1
Current Fee Established in KRS 211.760	$20	$20	$20	$20	$20
Proposed Revised Fees (based on no reinspection or enforcement action follow-up)	$400	$50 for each additional workstation over four (4)	$225	$250	$50 for each additional workstation over four (4)
Actual expenditure	$600	$600+	$225	$300	$300+

The inspection fee is based on a routine inspection only. It does not include the costs associated with doing follow-up inspections for the correction of identified noncompliance or for complaint investigations.

In addition to the time required for inspection, there is staff time dedicated to processing the applications for registration and following up on registrations that were not renewed timely and expired. The addition of the late payment penalty fee will help to offset some of the staff time costs associated with these follow-up activities.

(9) TIERING: Is tiering applied? Tiering is applied. The inspection of a tattoo studio that has one (1) to four (4) workstations takes approximately two (2) hours. A studio that has more than four (4) workstations will take longer to inspect. This results in a higher fee structure when the studio has more than four (4) workstations.

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 local and district health departments as well as the Food Safety Branch in the Department for Public Health.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 211.760, 28 C.F.R. 36.104, 29 C.F.R. 1910.1030.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is estimated the changes to the fee structure will generate $172,800 from tattoo studios and $133,700 from tattoo artists in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There is no anticipated change in revenue in subsequent years should the current number of registered studios and individuals remain steady.

(c) How much will it cost to administer this program for the first year? The current cost to administer all programs under the Food Safety Branch within the Division of Public Health Protection and Safety is $5,524,622. There is no anticipated increase in costs to administer the tattoo inspection program this first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated increase in costs to administer the tattoo inspection 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:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 28 C.F.R. Part 36 – Nondiscrimination on the basis of disability by public accommodations and in commercial facilities under the Americans with Disabilities Act (ADA); and 29 C.F.R. 1910.1030 Occupation Safety and Health Standards.

2. State compliance standards. KRS 211.760 authorizes the cabinet to promulgate administrative regulations relating to the health and cleanliness of places of business in which tattooing, body piercing or both are performed, procedures to prevent the spread of disease or infection during or relating to tattooing and

body piercing procedures, and such other administrative regulations as may be necessary to protect public health.

3. Minimum or uniform standards contained in the federal mandate. The ADA requires a public accommodation to take the steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently. The federal regulations regarding bloodborne pathogens applies to all occupational exposure to blood or other potentially infections materials.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements than those required by 28 C.F.R. Part 36 and 29 C.F.R. 1910.1030.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 45:070. Body piercing and ear piercing.

RELATES TO: KRS 194A.050[~~Chapter 13B~~], 211.005, 211.015, 211.025, 383.085, 387.010, 28 C.F.R. 36.104[~~211.760~~], 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 194A.050(1), 211.760[~~(3), EO 2004-444~~]

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet.[~~EO 2004-444, effective May 11, 2004, reorganized the Cabinet for Health and Family Services and placed the Department for Public Health under the Cabinet for Health and Family Services.~~] KRS 211.760(2) requires nonmedical persons who engage in or carry on any business of body piercing to register with a local health department. KRS 211.760(3) requires the cabinet to promulgate administrative regulations relating to: (a) health and cleanliness of places of business; (b) sterilization of body piercing instruments and equipment; (c) procedures to prevent the spread of disease; (d) procedures to prevent body piercing of minors without the written notarized consent of a custodial parent or legal guardian; and (e) other administrative regulations as may be necessary to protect public health. This administrative regulation establishes the standards required by KRS
211.760(3).

Section 1. Definitions. (1) "Antiseptic" means a substance applied to the skin that reduces the number of microorganisms.

(2) "Autoclave" means equipment sold as sterilizing equipment for medical instruments and employs steam under pressure to sterilize.

(3) "Blood" is defined by 29 C.F.R. 1910.1030[~~means human blood or any human body fluid or tissue that is visibly contaminated with blood~~].

(4) "Bloodborne pathogens" is defined by 29 C.F.R. 1910.1030[~~pathogen(s)" means the pathogenic microorganisms that are present in human blood that can cause disease in humans such as Hepatitis B (HBV), Hepatitis C (HCV), and human immunodeficiency virus (HIV)~~].

(5) "Body piercer" means a person registered by the local health department.

(6) "Body piercing" is defined by KRS 211.760(1)(a).

(7) "Contaminated" means the presence of or reasonably-expected presence of blood or other potentially-infectious material in or on the surface of an item.

(8) "Contaminated sharps" is defined by 29 C.F.R. 1910.1030[~~means any contaminated object that can penetrate the skin such as piercing needles and razors~~].

(9) "Contaminated waste" means any material to be disposed of that has been soiled by blood or other potentially-infectious material in the process of body piercing.

(10) "Disinfectant" means a chemical agent that destroys disease-causing pathogens or other harmful microorganisms but does not ordinarily kill bacterial spores. Approved disinfectants are:

(a) List D: the EPA's Registered Antimicrobial Products Effective Against Human HIV-1 and Hepatitis B Virus; and

(b) List E: the EPA's Registered Antimicrobial Products Effective Against Mycobacterium tuberculosis, Human HIV-1 and Hepatitis B Virus.

(11)[~~(10)~~] "Ear piercing" means a process by which the lobe or outer perimeter of the ear is pierced by use of a hand-pressured instrument utilizing presterilized earrings.

(12)[~~(11)~~] "Ear piercing instrument" means a hand-pressured instrument, that does not make contact with the client, utilizing encapsulated presterilized earrings used exclusively for piercing the lobe[~~and outer perimeter~~] of the ear. This may sometimes be referred to as a "piercing gun".

(13)[~~(12)~~] "Handwashing" means the following process:

(a) Wetting hands and forearms with warm running water between[~~,~~] 101 degrees Fahrenheit and[~~-~~] 120 degrees Fahrenheit[~~□F~~];

(b) Applying liquid[~~antibacterial or antimicrobial~~] soap and thoroughly distributing over hands and forearms;

(c) Rubbing hands vigorously for twenty (20) seconds, covering all surfaces of the hands, forearms and fingers, paying special attention to the thumbs, backs of fingers, backs of the hands, and between the fingers;

(d) Rinsing hands and forearms thoroughly to remove residual soap; and

(e) Drying hands and forearms with one of the following: individual, disposable towels; a continuous towel system that supplies the user with a clean towel; a heated-air hand drying device; or a hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures[~~paper towels dispensed from sanitary dispensers~~].

(14)[~~(13) "Health care professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky.~~

~~(14) "High-level disinfection" means the elimination of pathogenic microorganisms except for bacterial spores from inanimate objects, rendering them safe to handle.~~]

~~(15)~~] "Instrument" means any body-piercing implement that comes into contact with blood or nonintact skin such as needles, needle tubes, forceps, hemostats, tweezers, or other implements used to puncture or pierce the human body.

(15)[~~(16)~~] "Jewelry" means any personal ornament or decoration inserted into a newly-pierced area.

(16)[~~(17)~~] "Minor" is defined at KRS 387.010(1).

(17)[~~(18)~~] "Mobile studio" means a body-piercing studio that is designed to be readily movable.

(18)[~~(19)~~] "Nonintact skin" means human skin that has an open wound from a cut, burn, rash, infection, or any other condition that has altered the skin.

(19)[~~(20) "Piercing gun" means a handheld tool that is used exclusively for piercing the lobe and outer perimeter of the ear.~~

~~(21)~~] "Purchased presterilized" means procedure set-ups that are sold individually packaged, processed, and marked with a sterilization lot number, and expiration date to render them free of all microorganisms.

(20)[~~(22) "Registrant" means the individual duly authorized to engage in the business of body piercing or ear piercing.~~

~~(23)~~] "Registration" means the issuance of a document by the local health department to a body piercer or ear piercer authorizing the person named in the document to engage in the business of body piercing or ear piercing.

(21) "Service animal" is defined by 28 C.F.R. 36.104.

(22)[~~(24) "Regulated waste" means waste as defined by the Department of Labor, OSHA, Bloodborne Pathogens Regulation, 29 C.F.R. 1910.1030 [and incorporated by reference in 803 KAR 2:320.~~

~~(25) "Sanitize" means a bactericidal treatment to clean surfaces of equipment, approved by the local health department for being effective in destroying microorganisms, including pathogens, to a safe level.~~

~~(26)~~] "Sterilization" means the use of an autoclave to kill microbial life by holding instruments and equipment under steam pressure for a minimum of fifteen (15) minutes, at fifteen (15) pounds of pressure, at a temperature of 250 degrees Fahrenheit or 121 degrees Celsius.

(23)[~~(27)~~] "Studio" is a facility as defined by KRS 211.760(1)(b).

(24)[~~(28)~~] "Studio certification" means the issuance of a document by the local health department to a studio owner certifying that the studio, after inspection, was in compliance with the applicable provisions of this administrative regulation.

(25)[~~(29)~~] "Studio owner" means:

(a) An owner of a facility where body piercing or ear piercing is conducted; or

(b) A sole proprietor who performs body piercing or ear piercing; or

(c) A person who employs body piercers or ear piercers.

(26)[~~(30)~~] "Temporary permit[~~studio~~]" means a permit to operate at a fixed location for[~~facility setup that operates~~] no more than seven (7) calendar days, is nontransferable, and cannot be renewed for[~~in a~~] ninety (90) days after the expiration[~~day period~~].

Section 2. Registration. (1)[~~Except as otherwise provided in Section 12 of this administrative regulation, an applicant shall be at least eighteen (18) years of age at the time of application.~~

~~(2) Pursuant to KRS 211.760(2),~~] A person shall not act as or engage in the business of body piercing or ear piercing unless registered with the local health department in the district or county where the person is to body pierce or perform ear piercing.

(2) All body piercing or ear piercing shall be under the auspices of a Kentucky certified studio.

(3) No body piercer or ear piercer shall engage in the act of piercing unless that person has proof of completion of a bloodborne pathogen training that is in compliance with 29 C.F.R. 1910.1030.

(4) The body piercer or ear piercer shall maintain documentation of completion of bloodborne pathogen training at the studio.

(5) An applicant for registration shall be at least eighteen (18) years of age at the time of application.

(6) An applicant for registration[~~for body piercer or ear piercer~~] shall submit[~~a completed Application Form DFS-303, incorporated by reference,~~] to the local[~~or district~~] health department in the district or county where the applicant intends to perform body piercing or ear piercing:

(a) A completed DFS-303 Application for Certification/Registration, incorporated by reference in 902 KAR 45:065;

(b) Payment of $100 registration fee; and

(c) Proof of completion of approved bloodborne pathogen training as required by subsection (2) of this section.

(7)[~~(4) Pursuant to KRS 211.760(2), payment of the registration fee shall be made to the local or district health department where the applicant intends to body pierce or perform ear piercing.~~

~~(5)~~] The body piercer or ear piercer registration shall be:

(a) Mailed to the owner of the Kentucky certified studio listed on the application for registration;

(b) Prominently displayed to the public in the workstation; and

(c) Nontransferable from one (1) person to another, or from one (1) district or county to another.

(8)[~~(6) All body piercing or ear piercing shall be under the auspices of a Kentucky certified studio.~~

~~(7) A registrant shall post his registration document prominently at their workstation~~].

~~(8) A registration shall not be transferable from one (1) person to another, or from one (1) district or county to another.~~

~~(9) Pursuant to KRS 211.760(2),~~] Registrations shall be valid for[~~expire~~] one (1) calendar year and expire on December 31st of each year[~~from the date of issuance~~].

(9) A late penalty fee of fifty (50) dollars shall be assessed on all body piercer and ear piercer certification renewal applications not received by January 30th or postmarked after January 31st each year.

Section 3. Studio Certification. (1) A person shall not engage in the business of body piercing or ear piercing unless the owner of the facility holds a studio certification issued by the local health department in the district or county where the person is to body pierce or perform ear piercing.

(2) A holder of a studio certification issued under this administrative regulation shall not allow persons to engage in body piercing or ear piercing unless the individual is registered in accordance with Section 2 of this administrative regulation.

(3) Applications for studio certification shall be:

(a) On DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040;

(b) Submitted to the local health department in the district or county where the studio is located; and

(c) Accompanied by an annual inspection fee of:

1. $400 for a body piercing studio with one (1) to four (4) work stations;

2. $200 for an ear piercing studio with one (1) to four (4) work stations; and

3. An additional fifty (50) dollars for each additional work station over four (4).

(4) A studio certification shall not be issued or renewed unless the studio has been inspected and found to be in compliance with the provisions of this administrative regulation.

(5)[~~(3)~~] A studio certification shall be:

(a)[~~required for each district or county in which a registrant performs any activity regulated by this administrative regulation.~~

~~(4) The studio certification shall be~~] Prominently displayed to the public in the studio; and

(b)[~~.~~

~~(5) A studio certification is~~] Nontransferable from one (1) person to another, or from one (1) location to another.

(6)[~~A holder of a studio certification issued under this administrative regulation shall not allow persons to body pierce or perform ear piercing unless registered in accordance with Section 2 of this administrative regulation.~~

~~(7) Payment of an annual inspection fee of $100 shall be made to the local health department in the district or county where the person is to body pierce or perform ear piercing. Payment of an annual inspection fee of twenty-five (25) dollars shall be made in the district or county where the person is to perform ear piercing only.~~

~~(8) Applications for studio certification shall be submitted to the local health department on Application Form DFS-200, incorporated by reference.~~

~~(9)~~] The studio certification shall be valid for one (1) calendar year and expire December 31st each year.

(7) A late penalty fee of one-half (1/2) the annual inspection fee shall be assessed on all studio registration renewal applications not received by January 30th or postmarked after January 31st each year[~~one (1) year from the date of issuance~~].

Section 4. Studio[~~Facility~~] Requirements. (1) A studio[~~facility~~] shall:

(a) Be kept clean and in good repair;

(b) Be free of insect and rodent infestation;

(c) Store only items necessary to its operation and maintenance;

(d) Provide artificial light of at least twenty (20) foot-candles[~~, measured at a height of thirty-six (36) inches from the floor~~];

(e) Be well ventilated;

(f) Not permit the presence of a pet or other animal in the studio, except for a service animal[~~:~~

~~1. A trained guide or assistance animal for the disabled; or~~

~~2. Fish in an aquarium in the waiting area~~];

(g) Not use a room otherwise used as living or sleeping quarters;[~~.~~]

(h) Use a solid, self-closing door to separate living or sleeping quarters from the business operation;[.]

(i)[~~Have an entrance allowing direct entry into the facility, except for a facility existing on the effective date of this administrative regulation which is exempt from this requirement;~~

~~(j)~~] Have convenient, clean, and sanitary toilet and handwashing facilities for the use of clientele with liquid soap, single-use paper towels from a sanitary dispenser or air dryer, covered waste receptacle and self-closing door;

(j)[~~(k)~~] Be organized to keep clean areas separate from contaminated areas;

(k) Have[~~(l) Use only~~] a utility sink that shall only be used to:

1. Wash[~~Clean~~] contaminated instruments; and

2. Empty mop water, without placing the mop bucket into the sink;

(l)[~~(m)~~] Use, clean, and maintain equipment according to manufacturers' recommendations;

(m)[~~(n)~~] Use an approved[~~a hard surface high-level EPA registered~~] disinfectant;

(n)[~~or~~

~~1. A solution of five and one-quarter (5.25) percent chlorine bleach, fifty (50) parts per million to 100 parts per million; and~~

~~2. A chlorine test kit to test concentration;~~

~~(o)~~] Have plumbing sized, installed, and maintained in accordance with the [~~Kentucky State Plumbing Code,~~] 815 KAR Chapter 20;

(o)[~~(p)~~] Have sufficient[~~an adequate~~] potable water supply for the needs of the studio provided from a source constructed, maintained, and operated pursuant to the applicable requirements established in 401 KAR Chapter 8[~~from:~~

~~1. A public or municipal water district, if available; or~~

~~2. A private water source approved by the Cabinet for Natural Resources and Environmental Protection, until a public water supply becomes available~~]; and

(p)[~~(q)~~] Dispose of sewage by connection to:

1. A public sewer system, if available; or

2. A private sewer system designed, constructed, and operated pursuant to the requirements of 401 KAR Chapter 5 and 902 KAR Chapter 10[~~the Cabinet for Health and Family Services or the Cabinet for Natural Resources, until a public sewer system becomes available~~].

(2) A workstation shall:

(a) Have nonporous[~~light-colored~~], smooth, easy-to-clean floors, walls, and ceilings;

(b) Have surfaces, including counters, cabinets, chairs, and dispensers, composed of[~~light-colored,~~] smooth, nonporous material able to withstand repeated cleaning and disinfecting[~~, except for a facility existing on the effective date of this administrative regulation which is exempt from the color requirement~~];

(c) Be kept clean, organized and in good repair;

(d)1. Have all product containers clearly labeled with common product name in English; and

2. If filling a product container from a larger bulk container, the original container shall be retained on the premises;

(e) Have at least sixty (60) square feet of floor space with permanent walls a minimum of four (4) fee high[~~one-half (1/2) walls~~] between workstations;

(f)[~~(d)~~] Have 100 foot-candles of light at the procedure level;

(g)[~~(e)~~] Have unimpeded access to a hand sink, without opening a door;

(h)[~~(f)~~] Have a sink for each body piercer with hot water between 101 and[~~at least~~] 120 degrees Fahrenheit and cold water less than 101 degrees Fahrenheit, delivered by a mixing faucet, operated by wrist, knee, or foot action;

1. Each sink shall be supplied with:

a. Liquid soap; and

b. Single use paper towels dispensed from a sanitary dispenser; and

2. A hand sink shall not be used for any other purpose;

(i)[~~(g)~~] Be designated as a body piercing workstation, and shall not be used for any other purpose;

(j)[~~(h)~~] Have double bagged[~~lined~~] plastic or metal waste receptacles:

1. With or without a lid; and

2. If waste receptacle has a lid it shall be food operated; and

(k)[~~(i)~~] Have a container for disposable sharps that:

1. Is rigid, puncture proof, and leak proof on sides and bottom;

2. Is closeable and sealable; and

3. If sealed, is leak resistant and incapable of being opened without great difficulty.

Section 5. Cleaning and Sterilization. (1) A studio[~~facility~~] may have a one (1) room or two (2) room cleaning and sterilization arrangement.

(a) A two (2) room arrangement shall have:

1. One (1) room for contaminated items, equipped with:

a. A utility sink with minimum dimensions of 18 in. x 18 in. x 12 in.;

b. A hand sink;

c.[~~,~~] A presoak container;

d. An[~~,~~] ultrasonic cleaning unit; and

e. Autoclaving packaging materials; and

2. A second room for autoclave sterilization of instruments, equipment and body jewelry or decorations.

(b) A one (1) room cleaning and sterilization process shall be arranged to provide two (2) distinct areas.

1. The ultrasonic unit shall be as far away as possible from the autoclave to prevent contamination of sterile instruments, equipment, jewelry, or other items.

2. The cleaning area shall be equipped in accordance with paragraph (a) subparagraph 1. of this section[~~with a utility sink with minimum dimensions of 18 in. x 18 in. x 12 in., a presoak container, ultrasonic cleaning unit and autoclaving packaging materials~~].

3. Nonporous barriers may be utilized to delineate the two (2) distinct areas.

(2) Body piercers that[~~which~~] share a certified studio with tattoo artists shall have a dedicated ultrasonic unit for cleaning body piercing instruments or equipment.

(3) All instruments shall be disposable or be made of surgical implant stainless steel and shall not have rubber gripping on the handles.

(4) Instruments shall be processed as follows:

(a) Soak contaminated reusable[~~used~~] instruments in a covered container of cool water with or without detergent until ready to be cleaned and sterilized;

(b) Wash hands and forearms in accordance with Section 1(13) of this administrative regulation;

(c) Use disposable, single-use gloves such as examination or surgical gloves;

(d)[~~(c)~~] Prepare the ultrasonic cleaner according to manufacturer's instructions;

(e)[~~(d)~~] Take instruments apart and rinse in warm water;

(f)[~~(e)~~] Load the ultrasonic cleaner and process according to manufacturer's recommendations, disposing of the ultrasonic cleaner liquid after each use;

(g) Wash hands and forearms in accordance with Section 1(13) of this administrative regulation;

(h)[~~(f)~~] Wearing examination gloves, remove instruments from the ultrasonic cleaner, rinse with clean water, and[~~dry with a clean lint-free towel, or~~] allow to air dry; and

(i)[~~(g)~~] Store cleaned instruments in a labeled, covered, nonporous container until packaged for sterilization.

(5) Sterilization equipment. Equipment used to sterilize instruments shall meet the following requirements:

(a) The equipment was sold as sterilizing equipment for medical instruments;

(b) The equipment is used, cleaned, and maintained to manufacturer's instructions; and

(c) The equipment meets the minimum requirements for sterilization[~~in the definition of "sterilization"~~].

(6) Reusable instruments.

(a) Reusable instruments placed in contact with skin that is body pierced shall be cleaned and sterilized;

(b)[~~.~~] Disinfection shall not be used in place of cleaning and

sterilization; and

(c)[.] Liquid sterilants shall not be used for sterilization of reusable instruments.

(7) Instrument sterilization. Instruments that pierce the skin, or touch nonintact skin, shall be sterilized as follows:

(a) Wash hands and forearms in accordance with Section 1(13) of this administrative regulation;

(b) Use clean disposable, single-use surgical or examination gloves;

(c)[(b)] Package cleaned instruments individually in:

1.[paper or plastic, or] Paper and plastic peel-packs with color change indicator;[peel-pack(s) with color (heat) change indicator(s),] or

2. Package as set-ups with color change indicator;

(d)[(c)] Label with content, date, lot number, and preparer's initials;

(e)[(d)] Load the sterilizer and process according to manufacturer's directions;

(f)[(e)] Remove the items from autoclave only when completely dry and cool [and dry];

(g)[(f)] Store the items in a nonporous, clean, dry, labeled container, cabinet or other place that is protected from dust and contamination; and

(h)1.[(g)] Sterilized instruments shall be resterilized at intervals of no more than six (6) months from the date of the last sterilization; and

2. New packaging shall be used when instruments are resterilized.

(8) Sterilization equipment monitoring.

(a) Sterilization equipment shall be tested;

1. During the initial installation;

2.[,] After any major repair;[,] and

3. At least monthly by using a commercial biological monitoring system; and

(b) Biological indicator test results for each sterilization unit used in the studio shall be kept on site, and made available for inspection at time of inspection; and

(c) Sterilization monitoring shall be noted on the sterilizer log.

(9) Sterilizer recordkeeping. A sterilizer log system shall be maintained for each sterilizer in the studio. For each sterilization cycle the following information shall be documented:

(a) Date of load;

(b) Lot number;

(c) Preparer's[Practitioner's] name;

(d) The general contents of the load;

(e) The exposure time and temperature or the sterilizer recording chart or tape; and

(f) The results of the chemical indicator.

Section 6. Studio Owner Responsibilities. The owner of a certified studio shall:

(1) Exclude and report to the local or district health department, a[any] body piercer or ear piercer who is:

(a)[while] Infected with a disease in a communicable form that can be transmitted by blood;

(b)[or who is] A carrier of organisms that cause disease;

(c)[or while] Infected with a boil, an infected wound;[,] or

(d) Diagnosed with an acute respiratory infection.[;]

(2) Report any accident involving exposure to body fluids to the local or district health department;

(3) Receive, review and distribute body piercer or ear piercer registrations issued for employees of the certified studio. If the body piercer or ear piercer is no longer employed by the certified studio, the registration shall be returned to the district or local health department where the certified studio is located;

(4)[(3) Continuously] Maintain a record of all persons performing any activity within the studio that is regulated by the cabinet. The record shall include at a minimum the following information:

(a) Full name;

(b) Date of birth;

(c) Home address;

(d)[Home] Phone number;

(e) Email address[if available];

(f) Photograph of body piercer or ear piercer; and

(g) Complete description of all body piercing or ear piercing procedures performed by the body piercer or ear piercer;

(5)[(4)] Maintain a current copy of this administrative regulation at the studio for use by body piercers or ear piercers;

(6)[(5)] Maintain a minimum of twenty-four (24) sets of sterilized needles, instruments, jewelry, and other decorations for each piercer;

(7)[(6)] Not resterilize or reuse single-use, disposable components; and

(8)[(7)] Maintain records in accordance with Section 8(5) of this administrative regulation if presterilized, disposable instruments and jewelry are utilized;

(9)[(8)] Maintain an accurate inventory of all purchased presterilized instruments and jewelry by name with the date purchased and the quantity on hand; and

(10)[(9)] Maintain invoices for the purchase of all purchased presterilized instruments and jewelry.

Section 7. Piercing of Minors. (1) No person shall perform any body piercing or ear piercing procedure on a minor without parental consent.

(2) Minors shall be at least sixteen (16) years old with custodial parent or legal guardian consent prior to body piercing.

(3) Consent shall be provided by:

1. A written notarized statement that contains[consent, with] an official seal or assigned identification of notary; or

2. The custodial parent or legal guardian present during the body piercing procedure.

(4) The notarized statement shall contain:

(a) The printed name of the custodial parent or legal guardian;

(b) The government issued photo identification number of the custodial parent or legal guardian;

(c) The address and phone number of the custodial parent or legal guardian;

(d) The printed name of the minor child;

(e) The date of birth of the minor child;

(f) The government issued photo identification number of the minor child, if available;

(g) A statement that the custodial parent or legal guardian is fully aware of the body piercing procedure and gives their consent for the procedure to be performed;

(h) The signature of the custodial parent or legal guardian; and

(i) The date of the signature of the custodial parent or legal guardian.

(5) The custodial parent or legal guardian present during the body piercing procedure shall provide a government issued photo identification.

(6) The custodial parent or legal guardian, and minor client shall complete the attestation requirements of Section 8(3)(h) of this administrative regulation[and with the signature of a custodial parent or legal guardian, shall be obtained for all minors prior to body piercing or ear piercing].

Section 8. Client Information and Records. (1) Before receiving a body piercing or ear piercing, the client shall be provided written information that the piercing poses a risk of infection.

(2) Before the body piercing or ear piercing, the client shall be provided[written and] verbal aftercare instructions that include the following information:

(a) Information on the care of the site of the piercing;

(b) Instructions on possible side effects;

(c) Information on any restrictions;

(d) Information on signs and symptoms of infection; and

(e) Instructions to consult a physician if signs and symptoms of infection such as fever, excessive swelling, excessive redness, or drainage occur.

(3) A record of all clients who have received any body piercings or ear piercings shall be kept by the studio owner. The record shall include the following information:

(a) Studio name and registration number;

(b) The date the procedure was performed;

(c) Client's name, date of birth, address, and telephone number;

(d)1. Copy of client's government issued photo ID, if applicable; or

2. Copy of custodial parent or legal guardians government issued photo identification[~~or recorded identification number from government issued documentation~~];

(e) Name of the body piercer or ear piercer who performed the procedure(s);

(f) The type, location and description of the procedure; [~~and~~]

(g) Lot number of items used; and

(h) Client's attestation[~~attestment~~] to the fact that the client is:

1. Not intoxicated or under the influence of drugs or alcohol; and

2. Not currently taking medications, such as anticoagulants, that thin the blood or interfere with blood clotting[~~with signature~~].

(4) Records of each client shall be typed or printed in ink prior to any procedure being performed.

(5)(a) All records shall be maintained [~~in a bound log~~] for two (2)[~~five (5)~~] years.

(b)[~~The current calendar year~~] Client, consent and other required records shall be kept at the certified studio and shall be made readily available to inspectors. [~~All records for the previous four (4) years may be maintained off site and shall be made readily available upon request of the cabinet, district or local health department.~~]

Section 9. Disposal of Contaminated Wastes. All wastes produced during the process of body piercing or ear piercing shall be separated for disposal into two (2)[~~three (3)~~] classifications as follows:

(1) Contaminated sharps shall be disposed of by using a licensed medical waste disposal company;

(2)[~~Regulated waste, as defined by the Department of Labor, Occupational Safety and Health Administration, shall be disposed of in accordance with the bloodborne pathogens regulation 29 C.F.R. 1910.1030 as adopted in Kentucky by 803 KAR 2:320.~~

~~(3)~~] Contaminated waste[~~, other than contaminated sharps and regulated waste,~~] shall be sprayed with an approved disinfectant[~~a dilution of five and one-quarter (5.25) chlorine bleach, with a range of fifty (50) parts per million to 100 parts per million~~], double bagged, securely tied and disposed of daily in a trash container that prevents unauthorized access. This material shall be disposed of in an approved site by a general trash hauler.

Section 10. Standard Operating Procedures for Body Piercing. (1) Body piercing shall not be performed on skin which has a rash, pimples, evidence of infection, open lesions, mole, sunburn, or manifests any evidence of unhealthy conditions without written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure.

(2) The body piercer shall follow the procedures listed in this section in preparation for body piercing:[~~.~~]

(a) The body piercer and the client shall not eat, drink, use tobacco products, an electronic cigarette, or other vapor producing product[~~smoke~~] in the workstation;

(b) The body piercer shall wash hands and forearms in accordance with Section 1(13)[~~(10)~~] of this administrative regulation prior to and after every procedure;

(c) The body piercer shall wear new clean disposable examination gloves for every client. If a glove is pierced, torn, contaminated in any way, or if there is an interruption in the body piercing, both gloves shall be removed immediately,[~~and~~] discarded, hands and forearms washed in accordance with Section 1(13) of this administrative regulation and new, clean examination gloves used;

(d) The body piercer shall wear clean clothing;

(e) All instruments, needles, jewelry, and items to be used in the procedure shall be placed on plastic film or on a plastic-backed towel;

(f) Only hollow needles shall be used for body piercing;

(g) Only presterilized jewelry shall be installed in a fresh piercing;

(h) Only sterile jewelry made of surgical steel, implant stainless steel, solid 14K or 18K white or yellow gold, niobium, titanium or platinum and that is free of scratches, nicks or irregular surfaces shall be placed in newly pierced skin; and

(i) All single-use disposable items shall be placed on the plastic backed towel and shall be discarded after each client including:

1. Corks;
2. Rubber bands;
3. Skin prepping materials;
4. Marking devices;
5. Dental bibs;
6. Tray covers;
7. Gauze; and
8. Applicators; and

(j) The sharps container and waste receptacle shall be positioned within easy reach and in a manner to prevent contamination.

Section 11. Performance of Body Piercing. The body piercer shall use the procedure in this section when performing a body piercing:

(1) Disinfect the chair or table, and[~~procedure~~] tray[~~or area~~];

(2) Wash hands and forearms in accordance with Section 1(13)[~~(10)~~] of this administrative regulation;

(3) Use new disposable gloves and arrange all instruments and supplies to be used in the procedure on plastic film or on a clean, disposable plastic-backed towel within easy reach;

(4) Position the client[~~comfortably~~];

(5) Clean the skin and then apply an antiseptic to the area to be pierced and mark the location of the piercing with a new, disposable marking device;

(6) Remove and discard all materials used to prep the client, including gloves;

(7) Wash hands and forearms in accordance with Section 1(13)[~~(10)~~] of this administrative regulation and use new, clean examination gloves;

(8) Hold or stabilize the tissue with sterile instruments only. Pierce the skin using a sterile, single-use piercing needle that is the same gauge or that is only slightly larger gauge than the jewelry or ornament to be inserted;

(9) Immediately after use, place all needles, snip wires, or any other sharps into a sharps container.

(10) When the body piercing is complete, the body piercer shall answer any questions regarding the piercing and provide [~~written~~] aftercare instructions to the client; and

(11) Immediately after the client leaves the workstation, the body piercer shall place contaminated instruments into a covered container that is labeled "contaminated instruments" and disinfect all surfaces that have come into contact with the client or the client's tissues, including the piercing tray, chair or table.

Section 12. Standard Operating Procedures for Ear Piercing. (1) An ear piercing studio shall be exempt from Sections[~~4,~~] 5,[~~6(5), 8(3)(d),~~] 9(1)[~~and (2)~~], 10, and 11 of this administrative regulation.

(2) Ear piercing studs and clasps shall not be used under any circumstances anywhere on the body other than the lobe of the ear.

(3) An ear piercer[~~piercing studio~~] shall[~~follow the procedures listed in this section of this administrative regulation when preparing for and performing ear piercing~~]:

(a)[~~A piercer shall~~] Be registered in accordance with Section 2 of this administrative regulation[~~at least sixteen (16) years of age at the time of the application~~];

(b)[~~The piercer and the client shall~~] Not allow any eating, drinking, use of tobacco products, an electronic cigarette or other vapor producing product[~~eat, drink or smoke~~] in the area where ear piercing is conducted;

(c) Obtain consent for the procedure in accordance with Section 7 of this administrative regulation;

(d) Obtain client information in accordance with Section 8 of this administrative regulation;

(e) Wash their hands and forearms in accordance with Section 1(13) of this administrative regulation before and after each

piercing is performed;

(f)[~~The piercer shall cleanse the hands prior to each procedure by utilizing an antibacterial gel to cleanse the hands or a handwash facility. A handwash facility at the minimum consists of liquid antibacterial or antimicrobial soap, single-use paper towels, and an insulated five (5) gallon container with a liner type spigot, filled with warm water, and a bucket to catch the wastewater. The container shall be placed thirty (30) inches off the floor to allow easy use, and shall be filled regularly to ensure an adequate supply of warm water;~~

~~(d) The piercer shall~~] Wear new, clean disposable gloves for every client. If a glove is pierced, torn, contaminated in any way, or if there is an interruption in the ear piercing, both gloves shall be removed immediately,[~~and~~] discarded, hands and forearms washed in accordance with Section 1(13) of this administrative regulation and new, clean examination gloves used;

(g)[~~(e) The piercer shall~~] Wear clean clothing;

(h) Load presterilized, encapsulated cartridges for earrings into the ear piercing instrument without touching the cartridge, stud or clasp;

(i)[~~(f) The piercer shall record the client or parent/guardian's government issued identification number, such as a driver's license number, on the client record~~;

~~(g) The piercer shall verbally review with the client all aftercare instructions and~~] Answer any questions prior to performing an ear piercing;

(j)[~~(h) The piercer shall~~] Clean the ear with an antiseptic towelette before the procedure and mark the location of the piercing with a single use disposable marking pen or a surgical marking pen sanitized by design such as an iodine-based or alcohol;

(k)[~~(i) All ear piercers shall conform to the manufacturer's directions on use and applicable U.S. Food and Drug Administration requirements;~~

~~(j) When the piercing is complete, the piercer shall answer any questions and~~] Provide the client with[~~written~~] instructions regarding aftercare; and

(l)[~~(k) If a piercing gun is used,~~] Immediately after the client leaves the ear piercing area,[~~the piercer shall~~] thoroughly disinfect the piercing instrument[~~gun~~] with an approved[~~a high-level~~] disinfectant.

(4) When not in use, the piercing instrument[~~gun~~] shall be stored in a cabinet or other place that is protected from dust and contamination[~~; and~~

~~(l) Ear piercing studs and clasps shall not be used under any circumstances anywhere on the body other than the outer perimeter and lobe of the ear~~].

Section 13. Standard Operating Procedures for a Mobile Studio. (1) Applications for mobile studio certification shall be:

(a) On DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040;

(b) Submitted to the local health department in the district or county where the mobile studio is located; and

(c) Accompanied by a fee of:

1. $400 for the studio with one (1) to four (4) work stations; and

2. An additional fifty (50) dollars each additional work station over four (4)[~~Ear piercers shall not operate a mobile studio~~].

(2) If not currently registered in accordance with Section 2(6) of this administrative regulation, the body piercer and ear piercer[~~the mobile studio~~] shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees.

(3) The mobile studio shall be used exclusively for performing body or ear piercing. Habitation, cooking, pets and animals except service animals shall not be allowed in the mobile studio.

(4) The mobile studio shall [~~meet the same requirements as a stationary studio and~~] be inspected by the local health department prior to operation.[~~(4) All sewage shall be stored in a storage tank with a capacity at least 100 percent greater than the capacity of the on-board potable water, and shall be discharged into a public sewage system.~~]

(5) Any on-board restroom shall be supplied with hot running water at least 120 degrees Fahrenheit and cold running water less than 101 degrees Fahrenheit[~~as in subsection (6) of this section~~] and shall be supplied with toilet paper, liquid[~~antibacterial or antimicrobial~~] soap and single-use paper towels from a sanitary dispenser, covered waste receptacle, and a self-closing door.

(6) If the vehicle lacks an on-board restroom, the owner shall not operate the studio unless it is within 200 feet of a public restroom with handwashing facilities.

(7) All plumbing shall comply with the requirements of the [~~State Plumbing Code,~~] 815 KAR Chapter 20.

(8)(a) Each mobile studio shall have a potable water system under pressure.

(b) The system shall be of sufficient capability to furnish enough hot and cold water for handwashing, instrument cleaning, and sanitization pursuant to the requirements of this administrative regulation.

(c) The water inlet shall be:

1. Located in a position that it will not be contaminated by waste discharge, road dust, oil, or grease;[~~,~~] and [~~it shall be~~]

2. Provided with a transition connection of a size or type that will prevent its use for any other service.

(d) All water distribution pipes or tubing shall be constructed and installed in accordance with the[~~State Plumbing Code,~~] 815 KAR Chapter 20.

(e) Hoses, if used, shall bear the National Sanitation Foundation potable water (NSF-pw) mark and be fitted[~~be food grade,~~] with a backflow prevention device.

(9)(a) Each mobile studio shall have a permanently installed retention tank that is at least fifty (50)[~~100~~] percent larger than the potable water supply tank.

(b) Wastewater shall be discharged into a public sewage system.

(c) Liquid wastewater shall not be discharged from the retention tank if the mobile studio is in motion.

(d) All connections on the vehicle for servicing the mobile studio waste disposal shall be of a different size or type than those used for supplying potable water to the mobile studio.

(e) The wastewater connection shall be located below the water connection to preclude contamination of the potable water system.[~~(10) The vehicle shall be used exclusively for body piercing. Habitation, cooking, pets and animals shall not be allowed in the mobile studio.~~]

Section 14. Standard Operating Procedures for a Temporary Permit[~~Studio~~]. (1) At least thirty (30) days prior to the event date, the event organizer or studio owner for the event shall submit to the local health department in the district or county where the temporary studio is to be located:

(a) A DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040, accompanied by a $250 registration fee for each workstation;

(b) A layout of the event floor showing where body piercing and ear piercing will be performed;

(c) A list of all body piercers and ear piercers participating in the event that includes:

1. Name of body piercer or ear piercer;

2. Piercer's date of birth;

3. Home address;

4. Telephone number;

5. Email address;

6. Proof of piercer completion of blood-borne pathogen training;

7. Studio name;

8. Studio address;

9. Studio owner name;

10. Description of body piercing and ear piercing procedures to be performed at the event; and

(d) A copy of the client consent form to be used during the event[~~Ear piercers shall not operate a temporary studio~~].

(2) The event organizer or studio owner for the event shall be responsible for ensuring that the event is run in a manner that is safe for the body piercers, ear piercers, and the general public.[~~The event organizer or studio owner shall provide a list of~~

~~all body piercers participating in the event to the local health department in the district or county where the event is being held that includes the following information for each participating body piercer:~~

~~(a) Name;~~

~~(b) Date of birth;~~

~~(c) Home address;~~

~~(d) Business name;~~

~~(e) Business address;~~

~~(f) Home and work telephone numbers;~~

~~(g) Email address if available;~~

~~(h) Description of procedures to be performed at the event; and~~

~~(i) Copy of current body piercer registration.~~]

(3)[~~The event coordinator or studio owner shall provide a layout of the event floor to the local health department in the district or county where the event is being held showing where the body piercer will be piercing.~~

~~(4)~~] Each participant who performs body or ear piercing shall bring enough presterilized instruments and supplies to last for the whole event.

(4)[~~(5)~~] The event coordinator or studio owner shall:

(a) Provide a separate cleaning and sterilization room as a backup, unless only pre-sterilized disposables are used for the event;

(b) Provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event;

(c) Arrange for pick-up and disposal of contaminated waste in accordance with Section 9 of this administrative regulation; and

(d) Ensure the cleaning and sterilization room, if used, is disinfected at the close of the event.[~~provide a separate cleaning and sterilization room as a back up for use by participants who have used all of the presterilized instruments and supplies that were brought to the event. If used, the cleaning and sterilization room shall be disinfected at the close of the event. Presterilized disposable instruments and equipment shall not be reused.~~]

(5)[~~(6) The event coordinator or studio owner shall provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event.~~

~~(7) The event coordinator or studio owner shall provide for pick up and disposal of contaminated waste in accordance with Section 9 of this administrative regulation.~~

~~(8) Temporary studios located at locations such as fairs, festivals, or flea markets, shall comply with all requirements for a certified studio in accordance with Section 1 through 11 of this administrative regulation in their entirety.~~

~~(9) The body piercer and the temporary studio shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees.~~

~~(10)~~] The temporary workstation shall meet the following minimum conditions:

(a) Be at least 6[~~10~~] ft. x 10 ft., and be constructed in a manner to separate the body and ear piercer from the public in such a way as to protect the procedure area from contamination, and to prevent accidental exposure of the public to potentially-infectious materials created during[~~body~~] piercing.

(b) Have a floor and sides that are smooth, nonporous and easy to clean;

(c) Have at least 100 foot-candles of light available at the level where the[~~body~~] piercing is conducted;

(d) Be supplied with an adequate supply of paper or plastic barrier film to protect equipment and any other item that must be protected to prevent cross-contamination;

(e) Be equipped with a hand-wash facility that[~~. A hand-wash facility at the minimum~~] shall be:

1. A portable handwashing station; or

2. A minimum of a one (1) gallon container with a lever-type spigot, filled with warm potable water that:

a. Is placed at least thirty (30) inches off the floor to allow for easy use;

b. Supplied with a bucket to catch the wastewater; and

c. Has a minimum reserve of five (5) gallons of warm potable water available.

3. Supplied with:

a.[~~Consist of~~] Liquid [~~antibacterial or antimicrobial~~] soap; and

b.[~~,~~] Single use paper towels from a sanitary dispenser.

(f)[~~, and an insulated five (5) gallon container with a lever-type spigot, filled with warm potable water 101-120 °F, and a bucket to catch the wastewater. The water container shall be placed at least thirty (30) inches off the floor to allow for easy use, and shall be filled regularly to ensure an adequate supply of warm water for hand washing;~~

~~(e)~~] Waste water shall be disposed of into a public sewerage system, if available. If a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated pursuant to the requirements of the 401 KAR Chapter 5 and 902 KAR Chapter 10[~~; and~~

~~(f) Shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment and any other item that must be protected to prevent cross-contamination~~].

Section 15. Inspection of Studios. (1) The cabinet,[~~or the~~] local or district health department shall inspect each body piercing studio at least twice per year and each ear piercing studio once per year and shall make as many additional inspections and reinspections as are necessary for the enforcement of this administrative regulation.

(2)(a) The cabinet,[~~or the~~] local or district health department inspector shall record the inspection findings[~~in writing~~] for body piercing studios on an inspection report form DFS-342, incorporated by reference in 902 KAR 45:065.

(b)[~~, provided for that purpose and which shall constitute a written notice.~~]

The inspection report form shall:

1. Summarize the requirements of this administrative regulation; and[~~shall~~]

2. Set forth a weighted point value for each requirement.

(3) The rating score of the studio shall be the total of the weighted point value for all violations, subtracted from 100.

(4) The inspector shall provide the original[~~of the~~] inspection report to the certificate holder or[~~his~~] designee. The findings shall:

(a) Set forth the specific violations if found;

(b) Establish a[~~specific and reasonable~~] period of time for the correction of the violations specified, pursuant to the following provisions:

1. If the rating score of the studio is eighty-five (85) or more, all violations of one (1) and two (2) point weighted items shall be corrected[~~as soon as possible and~~] before the next routine inspection.

2. If the rating score of the studio is at least seventy (70) and not more than eighty-four (84), all violations of one (1) and two (2) point weighted items shall be corrected[~~as soon as possible and~~] within a period not to exceed thirty (30) days.

3. Regardless of the rating score of the studio, all violations of three (3) or four (4) point weighted items shall be corrected within[~~a time specified by the cabinet and within~~] ten (10) days.

4. If the rating score of the studio is less than seventy (70), the studio shall be issued a notice of intent to suspend the studio certification. The certification shall be suspended within ten (10) days after receipt of the notice unless a written request to an administrative conference is filed with the local or district health department within the ten (10) day period.

(5)(a)[~~(3)~~] The cabinet or local health department inspector shall record the findings[~~in writing~~] for ear piercing studios on inspection report form DFS-253[~~, provided for that purpose and shall constitute a written notice~~].

(b) The inspection report form shall summarize the requirements of this administrative regulation.

(c) The inspector shall provide the original of the inspection report to the certificate holder or[~~his~~] designee.

(d) The findings shall set forth the specific violations if found.

(e) All violations shall be corrected within twenty-four (24) hours.

(6)[~~(4)~~] Notices provided for under this administrative regulation shall be deemed to have been properly served if the original[~~of the~~] inspection report form or other notice has been delivered

personally to the certificate holder or person in charge, or the notice has been sent by registered or certified mail, return receipt requested, to the last known address of the certificate holder.

(7)[~~(5)~~] Failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in suspension or revocation of the studio certificate or the individual's registration.

(8)[~~(6)~~] Temporary and mobile studios shall correct any violative conditions within twenty-four (24) hours.

Section 16. Suspension of Studio Certificates or Individual's Registration. (1) The studio certificate or the individual's registration shall be suspended immediately upon notice to the holder if:

(a)[~~If~~] The cabinet,[~~or the~~] local or district health department has reason to believe that an imminent public health hazard exists;

(b)[~~, if~~] The studio certificate holder or registered individual has interfered with the cabinet or the local or district health department in the performance of its duties; or

(c)[~~if~~] An inspection of a studio reveals a rating score of less than sixty (60).

(2)[~~, the certificate or the individual's registration shall be suspended immediately upon notice to the holder. If this occurs,~~] The studio certificate holder or individual registration holder whose certificate or registration has been suspended may request an administrative hearing[~~conference~~] in accordance with 902 KAR 1:400[~~Section 19(2) of this administrative regulation. The conference shall be granted as soon as practical and before ten (10) days.~~

~~(2) In all other instances of a violation of the provisions of this administrative regulation, the cabinet or the local or district health department shall serve on the certificate holder or registered individual a written notice specifying the violation and shall afford the certificate holder or registered individual a reasonable opportunity for correction~~].

(3) The cabinet,[~~or the~~] local or district health department shall notify, in writing, the studio certificate holder or registered individual who fails to comply with a written notice issued under the provisions of this section, that the studio certificate or individual's registration shall be suspended at the end of ten (10) days following service of this notice unless a request for an administrative hearing[~~conference~~] is requested.

(4)[~~Section 17. Reinstatement of Suspended Certificates or an Individual's Registration.~~] A person whose studio certificate or individual registration has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the certification or registration.[~~The application for reinstatement shall be submitted on form DFS-215, provided by the cabinet. Within ten (10) days following receipt of an Application for Reinstatement, the cabinet or the local or district health department shall make a reinspection. If the applicant is found to comply with the requirements of this administrative regulation, the certificate or individual's registration shall be reinstated~~].

Section 17.[~~18.~~] Revocation of a Studio Certificate or an Individual's Registration. (1) For serious or repeated violations of any of the requirements of this administrative regulation, or for interference with agents of the cabinet,[~~or the~~] local or district health department in the performance of its duties, a studio certificate or an individual's registration may be permanently revoked.

(2) Prior to this action, the cabinet,[~~or the~~] local or district health department shall notify the studio certificate holder or registered individual, in writing, stating the reasons for which the studio certification or registration is subject to revocation and advising that the studio certification or registration shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative hearing[~~conference~~] is filed with the cabinet by the certification or registration holder within the ten (10) day period.

(3) A studio certification or individual registration may be suspended for cause pending its revocation or an administrative hearing[~~conference~~] relative to the revocation.

Section 18.[~~19.~~] Appeals. (1) A certificate or registration holder or an applicant aggrieved by a decision of the cabinet,[~~or~~] local or district health department may request[~~either~~] an administrative hearing in accordance with 902 KAR 1:400[~~conference or an administrative hearing. The request shall be submitted within ten (10) days of receipt of a written notice of:~~

~~(a) A violation;~~

~~(b) Suspension or revocation of a certificate or individual's registration;~~

~~(c) Denial to renew a certificate or individual's registration; or~~

~~(d) Denial of an initial application for a certificate or individual's registration.~~

~~(2) Administrative conference. An administrative conference shall be conducted in accordance with 902 KAR 1:400, Administrative hearings, with the following exceptions:~~

~~(a) The conference shall be less formal than an administrative hearing;~~

~~(b) The matter at issue shall be discussed before a representative of the Department of Public Health or the local or district health department; and~~

~~(c) Participants in the discussion shall be:~~

~~1. An agent of the cabinet or the local or district health department and;~~

~~2. The certificate holder, individual registered, or the applicant;~~

~~(d) A request for a conference shall be:~~

~~1. In writing; and~~

~~2. Submitted or addressed to the local or district health department that issued or gave notice of the violation, suspension, or revocation; and~~

~~(e) A certificate or registration holder or an applicant who does not agree with final ruling of the conference report issued by the local or district health department may appeal by requesting an administrative hearing.~~

~~(3) Administrative hearing.~~

~~(a) Conduct of the administrative hearing shall be pursuant to 902 KAR 1:400, Administrative hearings and KRS Chapter 13B; and~~

~~(b) A request for an administrative hearing shall be:~~

~~1. In writing;~~

~~2. Submitted or addressed to the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621; and~~

~~3. Accompanied by a copy of the notice of violation, notice to suspend or revoke, letter denying an application, or the conference hearing report~~].

Section 19.[~~20.~~] Incorporation by Reference. (1) "DFS-253, Ear Piercing Studio Inspection Report" (Rev. 2/19) is incorporated by reference[~~The following material is incorporated by reference:~~

~~(a) DFS-200, Application for Studio Certification (Rev. 7-01);~~

~~(b) DFS-303, Application for Registration (Rev. 7-03);~~

~~(c) DFS-342, Tattoo and Body Piercing Studio Inspection Report (Rev. 6-03);~~

~~(d) DFS-214, Enforcement Notice (Rev. 8-96);~~

~~(e) DFS-212, Request for Conference (Rev. 10-96);~~

~~(f) DFS-213, Notice of Conference (Rev. 8-96);~~

~~(g) DFS-215, Application for Reinstatement (Rev. 2-95); and~~

~~(h) DFS-253, Ear Piercing Studio Inspection Report (Rev. 05-04)~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 12, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort,

Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks: (502) 564-3970: julied.brooks@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for the: registration and certification process for a body piercing or ear piercing studio; registration process for an individual performing body piercing or ear piercing; studio owners responsibilities; studio and workstation design, and plumbing requirements for the studio; sanitation of the studio and sterilization of piercing equipment; body piercing and ear piercing procedures, including the requirements for body piercing or ear piercing a minor; registration and operating procedures for a mobile or temporary piercing studio; studio inspection process; and opportunity for an administrative hearing should a studio certificate or individual registration be subject to suspension or revocation.

(b) The necessity of this administrative regulation: The cabinet is authorized to promulgate administrative regulations regarding the health and cleanliness of places of business for tattooing and body piercing; the sterilization of equipment for tattooing and body piercing; procedures that will prevent the spread of disease or infection during a tattoo or body piercing procedure; procedures for performing tattooing or body piercing on minors with parental consent; and any other regulation that may be necessary to protect the public and properly administer the program requirements. This administrative regulation establishes the requirements required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.760 requires the registration of nonmedical personnel who engage in the business of tattooing or body piercing, or both. This administrative regulation outlines the registration process for body piercing and ear piercing studios and for individuals who engage in the act of body piercing and ear piercing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for operating a body piercing or ear piercing studio.

(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 amends several defined terms for clarity, and removes terms not used in the body of the regulation; adds the requirement that an individual registering as a body piercer or ear piercer complete bloodborne pathogen training; outlines the studio registration process for a permanent studio, a mobile studio and a temporary studio; updates the disinfection and equipment sterilization process; and further clarifies requirements for a notarized statement when a minor is seeking body piercing without a parent or legal guardian present. The fees associated with operating a body piercing or ear piercing studio, and the individual registration have been added to this administrative regulation. The local health department will need to be notified should there be an incident or accident that results in exposure to blood or body fluid.

(b) The necessity of the amendment to this administrative regulation: House Bill 327, enacted during the 2018 legislative session, amended KRS 211.760 by removing the registration fee. This amendment is necessary to add the fee structure for body piercing and ear piercing studio, and body piercer and ear piercer registration to this administrative regulation. This amendment also includes a late payment penalty fee for both the studio and the individual registration should the registration not be renewed timely and is postmarked beyond thirty (30) days after the expiration date. Completion of a bloodborne pathogen training is an industry standard for any individual who is employed in an occupation where contact with blood or body fluids is likely. Because body piercing and ear piercing pose a risk of contact to blood or body fluids this training is necessary to protect the individual performing the piercing and the public. Providing further details to be contained in the notarized statement allowed by statute helps to ensure the parent or legal guardian is fully aware of, and gives consent for, the procedure.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment helps to prevent the spread of disease or infection that could result during a body piercing or ear piercing procedure, and protect the public health, as authorized by KRS 211.760.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in protecting the health of individuals seeking a body piercing or ear piercing as authorized by KRS 211.760 by updating the disinfecting and sterilization processes, ensuring all body and ear piercers are properly registered and have completed bloodborne pathogen training, and requiring health department notification should there be an incident or accident that results in exposure to blood or body fluids.

(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 112 body piercing studios, 302 body piercers, 125 ear piercing studios, 650 ear piercers, and 120 local health departments and sixty-one (61) district health departments. In addition, this administrative regulation will impact all individuals seeking body piercing or ear piercing.

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Individuals currently registered as a body piercer or ear piercer will need to obtain a bloodborne pathogen training that meets the required standard prior to the renewal of their registration. Studio owners will need to ensure each individual working in the studio completes the required training in a timely manner. Studio owners will need to be familiar with the changes to the studio and workstation design, the sanitation and plumbing requirements, as well as the disinfection and sterilization requirements in order to remain in compliance with this regulation. Event organizers who want to offer body or ear piercing during an event will need to be familiar with the applicable sections of this regulation to ensure compliance. Local and district health department staff will need to ensure receipt of the bloodborne pathogen training documentation from the piercer who is renewing their registration, and any new body or ear piercer applying for registration. Local and district health departments may elect to offer the required bloodborne pathogen training and will need to ensure the training is in compliance with 29 C.F.R. 1910.1030. Local and district health department inspectors will need to be familiar with the changes in this administrative regulation and the inspection form.

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

question (3): The current fee for registration for a body piercing or ear piercing studio is twenty (20) dollars. The proposed fee for a studio offering body piercing is being raised to $400 for a studio with one (1) to four (4) workstations and an additional fifty (50) dollars for each additional workstation. This will result in an increased cost of $380 or more for the studio. A studio that offers ear piercing only will be assessed a registration fee of $200 for a studio with one (1) to four (4) workstations and an additional fifty (50) dollars for each additional workstation. This will result in an increased cost of $180 or more for the studio. A studio owner who does not submit the annual registration timely will be assessed a late payment penalty fee of $100. The current fee for registration for the individual body piercer or ear piercer is also twenty (20) dollars. This fee is being increased to $100 which will result in an eighty (80) dollar increase for each individual. An individual who does not renew their registration timely will be assessed a late payment penalty fee of fifty (50) dollars.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with this administrative regulation studio owners and individuals performing body piercing or ear piercing will be operating under a uniform code and inspection process. In addition, requiring additional information regarding the parent or legal guardians identification helps protect the body piercer and studio owner should someone attempt to falsify their authority to provide consent for the procedure. Studio's and body piercers and ear piercers who are in compliance with this administrative regulation will be offering individuals seeking a piercing a safe and sanitary environment for the procedure.

(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 costs to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional costs to implement this administrative regulation on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds and revenue received from permitting and inspection fees continue to be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in state funding is not necessary to implement this administrative regulation. The fees associated with this administrative regulation are being increased. The current registration fee of 20 dollars is inadequate to offset the costs associated with operating a program for the registration of body and ear piercers, piercing studios, and inspection of piercing studios.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This amendment increases the fees associated with operating a body piercing or ear piercing studio and the individual registration of a body piercer or ear piercer. The administrative cost to the cabinet is approximately $150 per hour for inspectors of body piercing or ear piercing studios. This cost includes the salary of the inspector, fiscal year 2018 Kentucky Employee Retirement System (KERS) and Federal Insurance Contributions Act (FICA) contributions, and health and life insurance cost, and other indirect costs. The number of workstations has an impact on the length of time required to conduct an inspection. The table below outlines the proposed change in the fee structure for body piercing and ear piercing studios.

	Body piercing studio with one (1) to four (4) workstations	Body piercing studio with more than four (4) workstations	Ear piercing studio with one (1) to four (4) workstations	Ear piercing studio with more than four (4) workstations	Mobile studio	Temporary studio with one (1) to four (4) workstations	Temporary studio with more than four (4) workstations
Avg. Hourly Rate	$150	$150	$150	$150	$150	$150	$150
Number of hours for inspection	2	Increase by 0.5 hour for each additional workstation	1.5	Increase by 0.5 hour for each additional workstation	1.5	2	Increase by 0.5 hour for each additional workstation
Minimum number of routine inspections	2	2	1	1	1	1	1
Current Fee Established in KRS 211.760	$20	$20	$20	$20	$20	$20	$20
Proposed Revised Fees	$400	$50 for each additional workstation over four (4)	$200	$50 for each additional workstation over four (4)	$225	$250	$50 for each additional workstation over four (4)
Actual expenditure	$600	$600+	$225	$225+	$225	$300	$300+

The hours required for inspection does not include travel time to and from the establishment. The inspection fee is based on a routine inspection only. It does not include the costs associated with doing follow-up inspections for the correction of identified noncompliance or for complaint investigations. In addition to the time required for inspection, there is staff time dedicated to processing the applications for registration and following up on registrations that were not renewed timely and expired. The addition of the late payment penalty fee will help to offset some of the staff time costs associated with these follow-up activities.

(9) TIERING: Is tiering applied? Tiering is applied. The inspection of a body piercing studio that has one (1) to four (4) workstations takes approximately two (2) hours. A studio that has more than four (4) workstations will take longer to inspect. This results in a higher fee structure when the studio has more than four (4) workstations. In addition, the inspection of an ear piercing studio is not as time consuming as the inspection of a body piercing studio. This results in a lower fee for a studio that performs only ear piercing. A mobile studio will be assessed the higher fee as the inspection frequency and length is equal to a permanent studio.

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 local and district health departments as well as the Food Safety Branch in the Department for Public Health.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 211.760, 28 C.F.R. 36.104, 29 C.F.R. 1910.1030.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is estimated that the changes to the fee structure will generate $75,000 in fees from body piercing studios and body piercers, and $115,000 from ear piercing studios and ear piercers in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There is no anticipated change in revenue in subsequent years should the current number of registered studios and individuals remain steady.

(c) How much will it cost to administer this program for the first year? The current cost to administer all programs under the Food Safety Branch within the Division of Public Health Protection and Safety is $5,524,622. There is no anticipated increase in costs to administer the body piercing and ear piercing inspection program this first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated increase in costs to administer the body piercing and ear piercing inspection 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:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 28 C.F.R. Part 36 – Nondiscrimination on the basis of disability by public accommodations and in commercial facilities under the Americans with Disabilities Act (ADA); and 29 C.F.R. 1910.1030 Occupation Safety and Health Standards.

2. State compliance standards. KRS 211.760 authorizes the cabinet to promulgate administrative regulations relating to the health and cleanliness of places of business in which tattooing, body piercing or both are performed, procedures to prevent the spread of disease or infection during or relating to tattooing and body piercing procedures, and such other administrative regulations as may be necessary to protect public health.

3. Minimum or uniform standards contained in the federal mandate. The ADA requires a public accommodation to take the steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently. The federal regulations regarding bloodborne pathogens applies to all occupational exposure to blood or other potentially infections materials.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements than those required by 28 C.F.R. Part 36 and 29 C.F.R. 1910.1030.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 45:075. Tanning facilities.

RELATES TO: KRS 217.920-928, 387.010[~~211.005, 211.015, 211.025, 211.180~~], 21 C.F.R. 1040.20

STATUTORY AUTHORITY: KRS 217.924, 217.926

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.924 requires all indoor tanning facilities to register with the local health department and pay a fee not to exceed administrative costs of the program. KRS 217.926 requires the Cabinet for Health and Family Services to promulgate administrative regulations relating to the registration and monitoring of tanning facilities. This administrative regulation establishes the responsibilities of tanning facilities,[~~and~~] the procedures for their registration and monitoring, and the required registration fee structure.

Section 1. Definitions. (1) "Consent" means to give assent or approval.

(2) "Guardian" is defined by KRS 387.010(3).

(3) "Minor" is defined by KRS 387.010(1).

(4) "Parent" is defined by KRS 387.010(7)

(5) "Protective eyewear" is defined by 21 C.F.R. 1040.20(6) [~~means any device designed to be worn by users of a product to reduce exposure of the eyes to radiation emitted by the product~~].

(6) "Registration" means the issuance of a document by the local health department to a tanning facility authorizing the person named in the document to engage in the business of operating a tanning facility.

(7) "Tanning device" is defined by KRS 217.920(2).

(8) "Tanning facility" is defined by KRS 217.920(3).

Section 2. Tanning Facilities Registration. (1) A tanning facility shall register with the local health department in accordance with KRS 217.924(3) by submitting a completed application form DFS-303, Application for Certification/Registration, incorporated by reference in 902 KAR 45:065, and a fee of seventy-five (75)[~~twenty (20)~~] dollars to the district or county health department at the time of registration.

(2) Registration shall be valid for one (1) calendar year and shall expire on December 31st of each year.

Section 3. Use by Minors. Minors shall not use a tanning device except in accordance with KRS 217.922.

Section 4. Facility Responsibilities. (1) A tanning facility shall give each customer a written statement in accordance with KRS 217.924(1) and 21 C.F.R. 1040.20.

(2) Each tanning facility shall maintain written or electronic consent forms and records in accordance with KRS 217.924(2); and

(3) Each tanning facility shall ensure patrons use protective eyewear by:

(a) Providing single use disposable eyewear; or

(b) Requiring patrons to provide their own eyewear.

Section 5. Monitoring. (1) The cabinet or local health department shall conduct on-site monitoring of a tanning facility upon:

(a) Initial facility registration; or

(b) Receipt of a complaint through the local health department.

(2) Each monitoring visit shall[~~will~~] be recorded using the[~~on Form~~] DFS-400, Tanning Facility Registration/Monitoring (Rev. 2/19) form.

Section 6. Suspension of Registration. (1) If a violation[~~,~~] is discovered, the local health department shall serve a registered facility with a written notice by providing the[~~on Form~~] DFS-400, Tanning Facility Registration/Monitoring (Rev. 2/19) form, specifying the nature of the violation and shall allow the facility

thirty (30) days for corrective action.

(2) Reinspection shall be conducted no later than thirty (30) days following the issuance of the DFS-400. If the violation is unresolved, the facility shall receive an additional thirty (30) days to correct the violation.

(3) At the end of sixty (60) days, if the violation has not been corrected, the registration of the tanning facility shall be suspended. The notice of suspension shall be provided in accordance with 902 KAR 1:400 Section 1.

(4)[writing on form DFS-214, Enforcement Notice.

Section 7. Reinstatement of Suspended Registration. (1)] A facility whose registration has been suspended may apply to the local health department for a re-inspection[for the purpose of reinstatement of the registration on the form DFS-215, Application for Reinstatement.

(2) Within ten (10) days following receipt of an Application for Reinstatement, the local health department shall make a re-inspection.

(3) If the applicant is found to be in compliance with the requirements of this administrative regulation, the registration shall be reinstated].

Section 7.[8.] Incorporation by Reference. (1) "DFS-400, Tanning Facility Registration/Monitor" (Rev. 2/19) is incorporated by reference[The following material is incorporated by reference:

(a) Form "DFS-400, Tanning Facility Monitoring Form", edition 6/07;

(b) Form "DFS-214, Enforcement Notice", edition 8/96;

(c) Form "DFS-215, Application for Reinstatement", edition 2/95; and

(d) Form "DFS-303, Application for Certification/Registration", edition 11/06].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 8, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks: (502) 564-3970: julied.brooks@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the responsibilities of tanning facilities, the procedures for their registration and monitoring, and the required registration fee structure.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to protect the health and safety of individuals accessing tanning facilities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.926 authorizes the cabinet to promulgate administrative regulations to monitor compliance with 21 C.F.R. 1040.20; assist with recordkeeping regarding parental consent for children ages fourteen (14) to eighteen (18), and their frequency of use; the registration of tanning facilities; and to create penalties for violating the provisions of KRS 217.920 to 217.928.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in establishing the registration requirements for a tanning facility; requires parental consent for a minor child seeking to use a tanning facility; provides for the use of protective eyewear by any individual using the tanning facility; and outlines the inspection and complaint investigation process.

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

(a) How the amendment will change this existing administrative regulation: This amendment increases the registration fee, updates the process for a facility owner who receives a notice of suspension of a permit, and make other changes necessary to conform to KRS Chapter 13A drafting rules.

(b) The necessity of the amendment to this administrative regulation: House bill 327 enacted during the 2018 legislative session of the general assembly amended KRS 217.924 by removing the registration fee of twenty (20) dollars. This amendment is necessary to increase the registration fee for registering a tanning facility.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment establishes the fee to be paid when registering a tanning facility.

(d) How the amendment will assist in the effective administration of the statutes: This amendment ensures all tanning facilities are properly registered with the local health department and are providing adequate protective eyewear to all users.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts 364 registered tanning facilities, as well as, 120 local health departments.

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Owners of a registered tanning facility will need to be aware of the increased fee amount. Local health department staff will need to be aware of the change to the process to be followed when a registration is suspended.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): Owners of a tanning facility will now be required to pay a seventy-five (75) dollar registration fee, an increase of fifty-five (55) dollars.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with this administrative regulation a tanning facility will ensure the health and safety of individuals using the facility.

(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 costs to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional ongoing costs to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Agency funds and revenue received from permitting fees continue to be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: There is no increase in funding necessary to implement this administrative regulation. An increase in the fees associated with registering a tanning facility is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. The fee established in this administrative regulation is being increased from twenty (20) dollars to seventy-five (75) dollars. KRS 217.924 requires that the fee not exceed the administrative costs of the program.

The administrative cost to the cabinet is approximately $150 per hour for inspectors of tanning facilities. This cost includes the salary of the inspector, fiscal year 2018 Kentucky Employee Retirement System (KERS) and Federal Insurance Contributions Act (FICA) contributions, and health and life insurance costs, and other indirect costs.

The initial inspection of a tanning facility takes between one-half (1/2) to one (1) hour to complete. This does not include the time required for travel to and from the facility or the time necessary for processing the registration paperwork. A complaint investigation would also take between one-half (1/2) to one (1) hour to complete. The registration fee increase to seventy-five (75) dollars does not exceed the administrative costs of the program.

(9) TIERING: Is tiering applied? Tiering is not applied. All regulated entities are affected equally by the amendment to this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact local health departments as well as the Food Safety Branch in the Department for Public Health.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.922, 217.924, 217.926, 217.928, 21 C.F.R. 1040.20.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate $20,020 in revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate $27,300 in revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The current cost to administer all programs under the Food Safety Branch within the Division of Public Health Protection and Safety is $5,524,622. There is no anticipated increase in costs to administer the tanning facilities registration and inspection program this first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated increase in costs to administer the tanning facilities registration and inspection 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:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 21 C.F.R. 1040.20 Sunlamp products and ultraviolet lamps intended for use in sunlamp products.

2. State compliance standards. KRS 217.924(1) requires a tanning facility to provide a written notice to each customer pursuant to 21 C.F.R. 1040.20.

3. Minimum or uniform standards contained in the federal mandate. Federal regulations require labels for sunlamp and ultraviolet lamp products that shall contain a statement regarding the dangers of exposure to ultraviolet radiation, the instructions for avoiding overexposure, and the potential side effects that could result from overexposure.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements than those required by 21 C.F.R. 1040.20.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 50:110. Grade A milk and milk products standards and Grade A milk sanitation requirements.

RELATES TO: KRS 194A.050, 217C.010-217C.990

STATUTORY AUTHORITY: KRS 194A.050(1)[~~211.090~~], 217C.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the secretary of 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 217C.040 authorizes[~~requires~~] the secretary[~~cabinet~~] to adopt rules and[~~promulgate administrative~~] regulations regulating[~~concerning~~] the production, transportation, processing, handling, sampling, examination, grading, standards of identity, and sale of milk and milk products, and such other matters relating to Grade A milk and milk products as may be necessary to protect the public health. This administrative regulation incorporates materials related to[~~establishes uniform~~] permit requirements and sanitary standards for Grade A milk producers, processors, handlers and distributors, Grade A dry and condensed milk, Grade A dry and condensed whey, and the fabrication of single-service containers and closures for milk and milk products.

Section 1. Grade A Milk and Milk Products. The permit, sanitary, and quality requirements for the production, processing, handling, and distribution of Grade A milk and milk products shall be in accordance with the:

(1) Evaluation of Milk Laboratories, 2017 edition;

(2)[~~same as the requirements established in the~~"] Grade "A" Pasteurized Milk Ordinance, 2017 edition; and

(3) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2017 edition[~~", 2009 edition, published by the United States Public Health Service/Food and Drug Administration~~].

Section 2. Methods of Making Sanitation Ratings of Milk Supplies. The sanitation rating methods of Grade A milk producers, processors, and handlers shall be in accordance with the Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers, 2017 edition.

Section 3. Incorporation by Reference. (1) The following

material is incorporated by reference:

(a) "Evaluation of Milk Laboratories", 2017;

(b) "Grade 'A' Pasteurized Milk Ordinance", 2017;

(c) "Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers", 2017; and

(d) "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments", 2017[2009 ~~edition, is incorporated by reference~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Cabinet for Health and Family Services,[~~the Office of the Commissioner,~~] Department for Public Health, Division of Public Health Protection and Safety, Milk Safety Branch[~~Services~~], 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks (502) 564-3970: julied.brooks@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates permit requirements, sanitary standards, and sanitation ratings for Grade A milk products.

(b) The necessity of this administrative regulation: KRS 217C.040 authorizes the secretary to adopt rules and regulations regulating standards of identity for milk and milk products.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) authorizes the secretary to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 217C.040 authorizes the secretary to adopt rules and regulations regulating standards of identity and labeling requirements for milk and milk products.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates the materials necessary for permitting and sanitary production of milk and milk products as authorized by KRS 217C.040.

(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 combines all Grade "A" milk standards and sanitation requirements into one (1) administrative regulation. The material incorporated by reference is also updated.

(b) The necessity of the amendment to this administrative: This amendment is necessary to adopt the most current standards related to Grade "A" milk and milk products production, and sanitation requirements. This amendment combines two (2) brief and related administrative regulations and updates material incorporated by reference.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is consistent with the authorizing statutes, which authorize the secretary to adopt appropriate rules and regulations for milk and milk products.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 600 Grade A milk producers and 30 Grade A milk plants in Kentucky. These facilities are already complying with the updated national standards.

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Affected entities will need to be aware of the updated versions of the material incorporated by reference and will need to be aware of the newly incorporated material.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): There are no new costs. The materials incorporated by reference are available on the Food and Drug Administration website for free download.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities engaged with Grade "A" milk and milk products will be operating under the most current versions of the uniform standards for safe and sanitary production.

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

(a) Initially: There is no cost to implement this amendment.

(b) On a continuing basis: There is no cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The entire Milk Safety program operates with approximately $1 million from the General Fund. There are no additional costs associated with 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: An increase in fees or funding is not necessary to implement this amendment.

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

(9) TIERING: Is tiering applied? No. This administrative regulation is applicable to all affected entities in a like manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Milk Safety Branch in the Department for Public Health administers this program.

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), 217C.040.

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

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

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

(c) How much will it cost to administer this program for the first year? There is no additional cost in administering this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The entire Milk Safety program operates with approximately $1 million from the General Fund.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. The federal Food and Drug Administration (FDA) entered into a memorandum of understanding with the National Conference on Interstate Milk Shipments (NCIMS) to assure uniformity across all states in the adoption and enforcement of the Grade "A" Pasteurized Milk Ordinance (PMO). It is recommended that states adopt the PMO, with appendices, to encourage greater uniformity and a higher level of excellence of milk sanitation practice in the United States. The purpose of this recommended standard is to facilitate the shipment and acceptance of milk and milk products of high sanitary quality in interstate and intrastate commerce. The Evaluation of Milk Laboratories publication provides the procedures required to meet the sanitation standards of the current in use edition of the Grade "A" PMO; and the Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers ensures uniform reciprocity between states to prevent unnecessary restrictions of the interstate flow of milk and/or milk products.

(2) State compliance standards. KRS 217C.060 authorizes the cabinet to enter into reciprocal agreements with milk control officials of federal or state agencies having standards substantially equivalent to the requirements of KRS Chapter 217C and the regulations of the secretary, which are enforced with equal effectiveness.

(3) Minimum or uniform standards contained in the federal mandate. In order to carry out the provisions of any reciprocal agreement the Milk Safety Branch within the Department for Public Health must be a member of the NCIMS and operate under the Procedures Governing the Cooperative State-Public Health Service/FDA Program of NCIMS.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no different, stricter, or additional responsibilities or requirements.

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

907 KAR 1:604. Recipient cost-sharing.

RELATES TO: KRS 205.560, 205.6312, 205.6485, 205.8451, 319A.010, 327.010, 334A.020, 42 C.F.R. 430.10, 431.51, 447.15, 447.20, 447.21, 447.50, 447.52, [~~447.53,~~] 447.54, 447.55, 447.56, 447.57[~~447.59~~], 457.224, 457.310, 457.505, 457.510, 457.515, 457.520, 457.530, 457.535, 457.570, 42 U.S.C. 1396a, 1396b, 1396c, 1396d, 1396o, 1396r-6, 1396r-8, 1396u-1, 1397aa -1397jj, 2014 Ky. Acts ch. 117, Part I.G.3.b.(10)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6312(5), 205.6485(1), 42 C.F.R. 431.51, 447.15, 447.50-447.90[~~447.82~~], 457.535, 457.560, 42 U.S.C. 1396r-6(b)(5)

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 205.6312(5) requires the cabinet to promulgate administrative regulations that implement copayments for Medicaid recipients. This administrative regulation establishes the provisions relating to Medicaid Program copayments.

Section 1. Definitions. (1) "Community spouse" means the individual who is married to an institutionalized spouse and who:

(a) Remains at home in the community; and

(b) Is not:

1. Living in a medical institution;

2. Living in a nursing facility; or

3. Participating in a 1915(c) home and community based services waiver program.

(2) "Copayment" means a dollar amount representing the portion of the cost of a Medicaid benefit that a recipient is required to pay.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Dependent child" means a[~~couple's~~] child, including a child gained through adoption, who:

(a) Lives with the community spouse; and

(b) Is claimed as a dependent by either spouse under the Internal Revenue Service Code.

(5) "DMEPOS" means durable medical equipment, prosthetics, orthotics, and supplies.

(6) "Drug" means a covered drug provided in accordance with 907 KAR 23:010 for which the Department for Medicaid Services provides reimbursement.

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

(8) "Federal Poverty Level" or "FPL" means guidelines that are updated annually in the Federal Register by the United States Department of Health and Human Services under authority of 42 U.S.C. 9902(2).

(9) "KCHIP" means the Kentucky Children's Health Insurance Program.

(10) "KCHIP - Separate Program" means a health benefit program for individuals with eligibility determined in accordance with 907 KAR 4:030, Section 2.

(11) "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(12) "Medicaid Works individual" means an individual who:

(a) But for earning in excess of the income limit established under 42 U.S.C. 1396d(q)(2)(B) would be considered to be receiving supplemental security income;

(b) Is at least sixteen (16), but less than sixty-five (65), years of age;

(c) Is engaged in active employment verifiable with:

1. Paycheck stubs;

2. Tax returns;

3. 1099 forms; or

4. Proof of quarterly estimated tax;

(d) Meets the income standards established in 907 KAR 20:020; and

(e) Meets the resource standards established in 907 KAR 20:025.

(13) "Nonemergency" means a condition which does not require an emergency service pursuant to 42 C.F.R. 447.54[~~447.53~~].

(14) "Nonpreferred brand name drug" means a brand name drug that is not on the department's preferred drug list.

(15) "Preferred brand name drug" means a brand name drug:

(a) For which no generic equivalent exists which has a more favorable cost to the department; and

(b) Which prescribers are encouraged to prescribe, if medically appropriate.

(16) "Preventive service" means:

(a)1. All of the preventive services assigned a grade of A or B by the United States Preventive Services Task Force (USPSTF); or

2. All approved adult vaccines, including their administration, recommended by the Advisory Committee on Immunization Practices;

(b) Preventive care and screening for infants, children, and adults recommended by the Health Resources and Services Administration Bright Futures Program Project; or

(c) Preventive services for women recommended by the Institute of Medicine.

(17) "Recipient" is defined in KRS 205.8451(9).

(18) "Transitional medical assistance" or "TMA" means an extension of Medicaid benefits in accordance with 907 KAR 20:005, Section 5(5).

Section 2. Copayments. (1) The following table shall establish the:

(a) Copayment amounts that a recipient shall pay, unless the recipient is exempt from cost sharing pursuant to Section 3(1) of this administrative regulation; and

(b) Corresponding provider reimbursement deductions.

Benefit	Copayment Amount
Acute inpatient hospital admission	$50
Outpatient hospital or ambulatory surgical center visit	$4
[~~Generic prescription drug~~]	[~~$1~~]
[~~Preferred brand name drug~~]	[~~$4~~]
[~~Nonpreferred brand name drug~~]	[~~$8~~]
Emergency room for a nonemergency visit	$8
DMEPOS	$4
Podiatry office visit	$3
Chiropractic office visit	$3
Dental office visit	$3
Optometry office visit	$3
General ophthalmological office visit	$3
Physician office visit	$3
Office visit for care by a physician assistant, an advanced practice registered nurse, a certified pediatric and family nurse practitioner, or a nurse midwife	$3
Office visit for behavioral health care	$3
Office visit to a rural health clinic	$3
Office visit to a federally qualified health center or a federally qualified health center look-alike	$3
Office visit to a primary care center	$3
Physical therapy office visit	$3
Occupational therapy office visit	$3
Speech-language pathology services office visit	$3
Laboratory, diagnostic, or radiological service	$3
A Medicaid or KCHIP beneficiary who is younger than nineteen (19) years of age.	$0
Brand name drug	$4
Generic drug	$1
Brand name drug preferred over generic drug	$1
Pharmacy product class: certain antipsychotic drug	
Pharmacy product class: contraceptives for family planning	$0
Pharmacy product class: tobacco cessation	$0
Pharmacy product class: diabetes supplies, blood glucose meters	$0
Pharmacy product class: Diabetes supplies, all other covered diabetic supplies	$4 for first fill, $0 for second fill and beyond, per day
Pharmacy patient attribute: pregnant	$0
Pharmacy patient attribute: long-term care resident	$0
Pharmacy patient attribute: under eighteen (18) years of age.	$0
KI-HIPP participant	$0
Kentucky HEALTH: Medically Frail	$0
Kentucky HEALTH: Former Foster Care Youth up to 26 years of age	$0
Kentucky HEALTH: enrollee current on premiums	$0

(2) The full amount of the copayment established in the table in subsection (1) of this section shall be deducted from the provider reimbursement.

(3) The maximum amount of cost-sharing shall not exceed five (5) percent of a family's income for a quarter.

Section 3. Copayment General Provisions and Exemptions. (1) A Medicaid or KCHIP beneficiary who is younger than nineteen (19) years of age shall be exempt from the copayment or cost-sharing requirements established pursuant to this administrative regulation.

(2)(a)[~~(a) Except for a foster care child, a recipient shall not be exempt from paying the eight (8) dollar copayment for a nonpreferred brand name drug prescription.~~

~~(b)~~] A copayment shall not be imposed for a service, prescription, item, supply, equipment, or any type of Medicaid benefit provided to a foster care child.

(b)[~~(c) Except for the mandatory copayment referenced in paragraph (a) of this subsection,~~] The department shall impose no cost sharing for an individual or recipient who is exempt pursuant to 42 C.F.R. 447.56.[~~the following:~~

~~1. A service furnished to an individual who has reached his or her 18th birthday, but has not turned nineteen (19), and who is required to be provided medical assistance under 42 U.S.C. 1396a(a)(10)(A)(i)(I), including services furnished to an individual with respect to whom aid or assistance is made available under Title IV, Part B (42 U.S.C. 620 to 629i) to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under Title IV, Part E (42 U.S.C. 670 to 679b), without regard to age;~~

~~2. A preventive service;~~

~~3. A service furnished to a pregnant woman;~~

~~4. A service furnished to a terminally ill individual who is receiving hospice care as defined in 42 U.S.C. 1396d(o);~~

~~5. A service furnished to an individual who is an inpatient in a hospital, nursing facility, intermediate care facility for individuals with an intellectual disability, or other medical institution, if the individual is required, as a condition of receiving services in the institution under Kentucky's Medicaid Program, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs;~~

~~6. An emergency service as defined by 42 C.F.R. 447.53;~~

~~7. A family planning service or supply as described in 42 U.S.C. 1396d (a)(4)(C); or~~

~~8. A service furnished to a woman who is receiving medical assistance via the application of 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII) and 1396a(aa).~~

~~(2) The department has determined that any individual liable for a copayment shall:~~

~~(a) Be able to pay a required copayment; and~~

~~(b) Be responsible for a required copayment.~~]

(3) A pharmacy provider or supplier, including a pharmaceutical manufacturer as defined in 42 U.S.C. 1396r-8(k)(5), or a representative, employee, independent contractor or agent of a pharmaceutical manufacturer, shall not make a copayment for a recipient.

(4) A parent or guardian shall be responsible for a copayment imposed on a dependent child under the age of twenty-one (21).

(5) Any amount of uncollected copayment by a provider from a recipient shall be considered a debt to the provider.

(6)[~~(a)~~] A provider shall:

(a)[~~1.~~] Collect from a recipient the copayment as imposed by the department for a recipient in accordance with this administrative regulation;

(b)[~~2.~~] Not waive a copayment obligation as imposed by the department for a recipient; and

(c)[~~3.~~] Collect a copayment at the time a benefit is provided or at a later date.[~~(b) Regarding a service or item for an enrollee in which the managed care organization in which the enrollee is enrolled does not impose a copayment, the provider shall not collect a copayment from the enrollee.~~]

(7) Cumulative cost sharing for copayments for a family with children who receive benefits under Title XXI, 42 U.S.C. 1397aa to 1397jj, shall be limited to five (5) percent of the annual family income.

(8) In accordance with 42 C.F.R. 447.15 and 447.20[~~447.82~~], the department shall not increase its reimbursement to a provider to offset an uncollected copayment from a recipient.

Section 4. Premiums for Medicaid Works Individuals. (1)(a) A Medicaid Works individual shall pay a monthly premium that is:

1. Based on income used to determine eligibility for the program; and

2. Established in subsection (2) of this section.

(b) The monthly premium shall be:

1. Thirty-five (35) dollars for an individual whose income is greater than 100 percent but no more than 150 percent of the FPL;

2. Forty-five (45) dollars for an individual whose income is greater than 150 percent but no more than 200 percent of the FPL; and

3. Fifty-five (55) dollars for an individual whose income is greater than 200 percent but no more than 250 percent of the FPL.

(2) An individual whose family income is equal to or below 100 percent of the FPL shall not be required to pay a monthly premium.

(3) A Medicaid Works individual shall begin paying a premium with the first full month of benefits after the month of application.

(4) Benefits shall be effective with the date of application if the premium specified in subsection (1) of this section has been paid.

(5) Retroactive eligibility pursuant to 907 KAR 20:010, Section 1(3), shall not apply to a Medicaid Works individual.

(6) If a recipient fails to make two (2) consecutive premium payments, benefits shall be discontinued at the end of the first benefit month for which the premium has not been paid.

(7) A Medicaid Works individual shall be eligible for reenrollment upon payment of the missed premium providing all other technical eligibility, income, and resource standards continue to be met.

(8) If twelve (12) months have elapsed since a missed premium, a Medicaid Works individual shall not be required to pay the missed premium before reenrolling.

Section 5. Provisions for Enrollees. A managed care organization shall[~~:~~

~~(1) Shall~~] not impose a copayment on an enrollee that exceeds a copayment established in this administrative regulation[~~; and~~

~~(2) May impose on an enrollee:~~

~~(a) A lower copayment than established in this administrative regulation; or~~

~~(b) No copayment~~].

Section 6. Freedom of Choice. (1) In accordance with 42 C.F.R. 431.51, a recipient who is not an enrollee may obtain services from any qualified provider who is willing to provide services to that particular recipient.

(2) A managed care organization may restrict an enrollee's choice of providers to the providers in the provider network of the managed care organization in which the enrollee is enrolled except as established in:

(a) 42 C.F.R. 438.52; or

(b) 42 C.F.R. 438.114(c).

Section 7. Appeal Rights. An appeal of a department decision regarding the Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

Section 8. Applicability of Title 895 KAR. If eligible for Kentucky HEALTH, an individual subject to this administrative regulation shall also comply with any applicable requirements established pursuant to Title 895 KAR, including 895 KAR 1:010[~~Effective Date. The cost sharing provisions and requirements established in this administrative regulation shall be effective beginning January 1, 2014~~].

Section 9. Federal Approval and Federal Financial Participation. The department's copayment provisions and any coverage of services established in this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation; and

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

Section 10. This administrative regulation was found deficient by the Administrative Regulation Review Subcommittee on May 13, 2014.

CAROL H. STECKEL, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March15, 2019 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone: 502-564-6746; fax: 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the cost sharing requirements and provisions for the Kentucky Medicaid program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the cost sharing requirements and provisions for the Kentucky Medicaid program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms

to the content of the authorizing statutes by establishing the cost sharing requirements and provisions for the Kentucky Medicaid program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the cost sharing requirements and provisions for the Kentucky Medicaid program.

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

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation synchronize co-pay exemptions with federal regulations, include additional co-pays and categories of co-pays, and prohibit MCOs from waiving or reducing Medicaid copays. The amendments also exempt Medicaid and KCHIP beneficiaries from paying copayments, and update the amount and types of copayments required for beneficiaries to pay. The amendments exempt various types of Kentucky HEALTH beneficiaries, including the medically frail, pregnant women, former foster youth, and individuals who are current on Kentucky HEALTH premiums.

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation are necessary to clarify Medicaid policy relating to copayments and to clarify how certain co-pays should be charged for certain types of visits at certain types of providers.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing a copayment requirement, synchronizing co-payment exemptions with the federal regulations, and updating certain copayments.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by instituting a clear policy on the use of copayments and updating certain copayments.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All Medicaid recipients who are not exempt from cost sharing will be affected by the amendment as well as Medicaid providers for whose services cost sharing is applied.

(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. Enrollees and recipients will be required to remit a copayment when accessing a Medicaid service and that requirement cannot be waived or reduced by an MCO. Providers of services for which cost sharing is imposed will be required to impose cost sharing when providing the given service and recipients are responsible for paying cost sharing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). Enrollees and recipients will have to pay copayments as listed in this administrative regulation. Providers may experience administrative costs resulting from a Medicaid recipient refusing to pay a copayment obligation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Enrollees and recipients will be able to fully access Medicaid benefits, and providers will be able to charge for services provided.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

(b) On a continuing basis: The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and matching funds from general fund appropriations.

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

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

(9) Tiering: Is tiering applied? Tiering is applied in that some Medicaid recipients are exempt (by federal regulation or law) from most cost sharing obligations.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(14), 42 U.S.C. 1396o, 42 C.F.R. 447.50 through 447.90, 42 C.F.R. 447.15 and 447.20, and 42 C.F.R. 438.108

2. State compliance standards. KRS 205.520(3) and KRS 194A.050(1).

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(14) authorizes a state's Medicaid program to impose cost sharing only as allowed by 42 U.S.C. 1396o. 42 U.S.C. 1396o establishes categories of individuals for whom a state's Medicaid program may not impose cost sharing as well as cost sharing and premium limits. 42 C.F.R. 447.50 through 447.60 also establishes limits on cost sharing (based on income of the given Medicaid eligibility group); Medicaid populations exempt from cost sharing (children, pregnant women, institutionalized individuals for example); services exempt from cost sharing (emergency services, family planning services to child-bearing age individuals); prohibition against multiple cost sharing for one (1) service; a requirement that state Medicaid programs do not increase a provider's reimbursement by the amount of cost sharing; and a requirement that managed care organizations' cost sharing must comply with the aforementioned federal regulations. 42 C.F.R. 438.108 establishes that a managed care organization's cost sharing must comply with the federal cost sharing requirements for Medicaid established in 42 C.F.R. 447.50 through 42 C.F.R. 447.90.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (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. Federal regulations 42 C.F.R. 447.50 through 42 C.F.R. 447.90, 42 C.F.R. 447.15 and 447.20, and this administrative regulation authorize the action taken by this administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? The Department for Medicaid Services (DMS) anticipates no additional costs as a result of the amendments to this administrative regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Guardianship
(Amendment)

910 KAR 2:020. Referral process for adult guardianship.

RELATES TO: KRS 209.020(5), 210.290(3), (4), 387.500-387.990, Chapter 389A

STATUTORY AUTHORITY: KRS 387.600(1), 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 387.600(1) authorizes the Cabinet for Health and Family Services to be appointed as limited guardian, guardian, limited conservator, or conservator to conduct an active guardianship or conservatorship program. KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the commonwealth. This administrative regulation establishes referral requirements for adult guardianship.

Section 1. Definitions. (1) "Adult" is defined by KRS 209.020(4).

(2) "Conservator" is defined by KRS 387.510(1).

(3) "Court" means a court of competent jurisdiction.

(4) "Disabled" is defined by KRS 387.510(8).

(5) "Division" means the Division of Guardianship.

(6)[~~"Fiduciary Services" means a central office branch under the Division of Guardianship.~~

~~(7) "Field Services Branch" means a central office branch under the Division of Guardianship.~~

~~(8)~~] "Informal network of support" means:

(a) A family member;

(b) A friend;

(c) A neighbor in the life of the individual needing assistance; or

(d) Another interested person or entity.

(7)[~~(9)~~] "Inquiry" means an individual or entity requesting information regarding guardianship services.

(8)[~~(10)~~] "Least restrictive alternatives" means an alternative to guardianship that shall be[~~have been~~] exhausted prior to being eligible for state appointment, including[~~such as~~]:

(a) Power of attorney;

(b) Living wills;

(c) Advance[~~Advanced~~] directives;

(d) Case management;

(e) Representative payee;

(f) Curator;

(g) Trustee;

(h) Health care surrogate;

(i) Ex-parte order;

(j) Emergency protective services;

(k) Adult protective ongoing services;[~~or~~]

(l) Informal network of support; or

(m) Supported decision making.

(9)[~~(11)~~] "Limited conservator" is defined by KRS 387.510(2).

(10)[~~(12)~~] "Limited guardian" is defined by KRS 387.510(4).

(11)[~~(13) "Personal needs" means an individual's need to purchase varied goods such as:~~

~~(a) Clothing;~~

~~(b) Personal care items; or~~

~~(c) Social support items such as:~~

~~1. Telephone;~~

~~2. Stationery;~~

~~3. Books;~~

~~4. Snacks; or~~

~~5. Occasional outings.~~

~~(14)~~] "Protective services" is defined by KRS 209.020(5).

(12)[~~(15) "Provider" means a facility or entity providing services for a ward such as:~~

~~(a) Self;~~

~~(b) Caretaker;~~

~~(c) Family;~~

~~(d) Group home placement;~~

~~(e) Hospital;~~

~~(f) Psychiatric hospital;~~

~~(g) Personal care home; or~~

~~(h) Supports for Community Living facility.~~

~~(16)~~] "Referral source" means an entity that makes an inquiry of the Division of[~~for~~]Guardianship Services such as:

(a) A member of the general public;

(b) Adult Protective Services;

(c) Child Protective Services;

(d) A family member;

(e) A medical hospital;

(f) A jail;

(g) A psychiatric hospital;[~~or~~]

(h) Another interested person or entity; or

(i) A long-term care facility.

(13)[~~(17)~~] "Successor guardian" means an individual, agency, or corporation who is appointed to succeed a current guardian removed by a court.

(14)[~~(18)~~] "Supported decision making" means a model for supporting people with disabilities to make significant decisions and exercise their legal capacity.

(15) Ward" is defined by KRS 387.510(15).

Section 2. Referral Process for Individuals Who Are Not Adjudicated.[~~Eligibility. The cabinet shall accept an individual for guardianship if the individual:~~] (1) If a referral source wishes the cabinet to be guardian, conservator, limited guardian, limited conservator, or any combination thereof, the referral source shall first contact the division by phone or in writing.[~~Is an adult;~~]

(2) When the referral source wants to proceed with the referral process the division shall provide, to the referral source, the GF-01 Guardianship Information Form and a cover letter providing instructions on how to submit the completed GF-01.[~~Has a disability or partial disability as determined by a hearing pursuant to KRS 387.580 and 387.740(1);~~]

(3) Upon receipt of the completed GF-01 the division shall review and determine if the referral meets the acceptance criteria as follows:

(a) Is an adult;

(b) Has a disability or partial disability as determined by a hearing pursuant to KRS 387.580 and 387.740(1);

(c) Is a legal resident of the Commonwealth, pursuant to KRS 210.290(2)(a);

(d)[~~(4)~~] Has no capable[~~available~~] informal network of support;

(e)[~~(5)~~] Has exhausted all other least restrictive alternatives; [~~and~~]

(f)[~~(6)~~] Has no other suitable person or entity available or able[~~willing~~] to be the individual's guardian [~~pursuant to KRS 387.600(1)~~];

(g)[~~(7)~~] Does not have a history of violent or sexual criminal behavior; and

(h) Is appointed by a court to be a ward of the cabinet.[~~Section 3. Referral, Petition, and Application for Individuals Who Are Not Adjudicated.~~

~~(1) If a referral source wishes the cabinet to be guardian, conservator, limited guardian, limited conservator, or any combination thereof, the referral source shall first contact the division by phone or in writing.~~

~~(2)(a) For individuals who have not been adjudicated disabled, the division shall refer an inquiry requesting public guardianship to the Division of Protection and Permanency, Adult Protective Services (APS) to determine if there is a protective need.~~

~~(b) The division shall determine if an inquiry meets acceptance criteria for guardianship through consideration of the following:~~

~~1. Least restrictive alternatives to guardianship have been exhausted;~~

~~2. All options for informal network of support have been explored;~~

~~3. There is a substantiated protective need;~~

~~4. There is a need for protective services;~~

~~5. The individual appears to lack sufficient understanding or capacity to make or communicate an informed choice to:~~

~~a. Manage Personal affairs;~~

~~b. Manage Financial affairs; or~~

~~c. Carry out activities of daily living;~~

~~6. If another individual or entity may be willing and able to serve as guardian or why the individual or entity is unable to serve;~~

~~7. The degree of guardianship that is appropriate to meet the substantiated ongoing protective needs of the individual; or~~

~~8. The positive benefit to the individual that the appointment of a guardian would provide.~~

~~(3) If the division determines that there is a case for guardianship, the division shall, except for an emergency case, send to the referral source the following within ten (10) working days of the determination:~~

~~(a) A current blank version of an AOC-740, Petition to Determine If Disabled, issued by the Administrative Office of the Courts and available at www.courts.ky.gov;~~

~~(b) A current blank version of a GFS-1, Guardianship Information Referral Form; and~~

~~(c) A cover letter instructing the referral source to complete and return the forms specified in paragraphs (a) and (b) of this subsection to the division.~~

~~(4) If the referral source completes the forms specified in subsection (3)(a) and (b) of this section), the division shall complete, sign, and]notarize:~~

~~(a) An AOC-745, Application for Appointment for Fiduciary issued by the Administrative Office of the Courts and available at www.courts.ky.gov; and~~

~~(b) The AOC-740, Petition to Determine If Disabled specified in subsection (3)(a) of this section.~~

~~(5) The division shall return the completed forms specified in subsections (3)(a), (b) and (4) of this section with a cover letter to the referral source instructing the referral source to file the documents with the court.~~

~~(6) If the division is notified of a hearing from the court, division staff shall attend the hearing to meet the respondent and gather information concerning the case.~~]

Section (3)[~~(4)~~]. Guardianship Referral for Individuals Who Have Been Adjudicated Disabled. (1) Within ten (10) working days of a referral, the division shall send to the referral source:

(a) A blank AOC-795, Petition for Relief Modification or Termination, issued by the Administrative Office of the Courts and available at https://courts.ky.gov/resources/legalforms/LegalForms/795.pdf https://courts.ky.gov/resources/legalforms/LegalForms/795.pdf[~~www.courts.ky.gov~~];

(b) The GF-01[~~GFS-1~~], Guardianship Information [~~Referral~~] Form; and

(c) A cover letter instructing the referral source to:

1. Complete the forms specified in paragraphs (a) and (b) of this subsection, in their entirety; and

2. Submit the completed forms to the division. Incomplete forms shall be returned without action.

(2) The referral source shall complete the forms listed in subsection (1)(a) and (b) of this section and return the forms to the division.

(3) The division shall review the documentation from the referral source[~~and request any additional information needed for the division~~] to complete the application process.

(4) If the division accepts the referral, the division shall:

(a) Complete, sign, and notarize an AOC-745, Application for Appointment for Fiduciary, issued by the Administrative Office of the Courts[~~and available at www.courts.ky.gov~~], requesting that the cabinet be appointed to serve as successor guardian, conservator, limited guardian, limited conservator, or any combination thereof; and

(b) Return the original, signed AOC-745 to the referral source for filing with the District Court in the county of residence.

(5) The division shall return the forms specified in subsections (1)(a), (b), and (4) of this section with a cover letter instructing the referral source to file the forms with the court.

(6) If the division is notified of a hearing by the court, division staff may attend the hearing to meet the respondent and gather information concerning the case.

(7) If the court requests, division staff attending court shall be sworn in as successor guardian, conservator, limited guardian or limited conservator.

Section (4)[~~(5)~~]. Nonacceptance for a Guardianship Referral. [~~(1)~~] If the referral does not meet the[~~eligibility~~] requirements of Section 2 and[~~acceptance criteria in~~] Section 3[~~(2)(b)~~] of this administrative regulation, the division shall notify the referral source in writing. The referral source[~~petitioner~~] may consult with the division for explanation and referral to other services.[~~(2) Guardians for disabled adults are appointed pursuant to KRS 387.500 to 387.990.~~]

Section (5)[~~(6)~~].[~~Opening a Case.~~

~~(1)(a) Upon notification of guardianship appointment, the division shall review the Administrative Office of the Court's, AOC-785, Disability Judgment, and AOC-775, Order of Appointment of Fiduciary, or any other legal document issued by the court to ensure the cabinet's authority is clear and concise.~~

~~(b) If the information is not clear and concise, the division shall ask the court for clarification following the process established by the individual jurisdiction;~~

~~(2)(a) If it is an emergency appointment, the division shall immediately assign the case to guardianship field staff.~~

~~(b) If the cabinet has no current involvement with the ward, a cabinet employee such as a nurse consultant, doctor, ombudsman, social worker, or guardianship services staff shall:~~

~~1. Contact the ward or provider; and~~

~~2. Assess the ward's need within two (2) working days of an emergency guardianship appointment.~~

~~(3)(a) If it is not an emergency appointment, the division shall assign the case to guardianship staff within ten (10) working days of notification from the court.~~

~~(b) If cabinet has current involvement, the Field Services Branch shall meet the ward and assess his or her needs within:~~

~~1. Five (5) working days of case assignment for a ward in a supervised setting; or~~

~~2. Thirty (30) working days of case assignment for a ward in a supervised setting by:~~

~~a. Visiting the ward to assess current physical condition and needs;~~

~~b. Reviewing the ward's records at his or her place of residence; and~~

~~c. Consulting with a care provider concerning the ward's care.~~

~~(4) Within thirty (30) working days of appointment, the division shall: Within thirty (30) working days of appointment, the division shall:~~

~~(a) Collect and verify names, addresses, and telephone numbers of the ward's relatives and other pertinent contacts;~~

~~(b) Determine if the ward has:~~

~~1. A will;~~

~~2. A burial policy;~~

~~3. An end-of-life decision document;~~

~~4. Durable power of attorney; or~~

~~5. Another power of attorney;~~

~~(c) Obtain an original or copy of the ward's wishes if the family has knowledge of the ward's wishes;~~

~~(d) Inform the Fiduciary Services Branch of any additional financial information obtained during the assessment;~~

~~(e) Secure and provide services as necessary for the protection and well being of the ward and his or her estate;~~

~~(f) Make a decision, in consultation with the Fiduciary Services Branch, regarding benefits and financial services; and~~

~~(g) Document a face-to-face visit with the ward.~~

~~(5) The division shall:~~

~~(a) Obtain information regarding assets and liabilities, including an inventory of:~~

~~1. Personal property;~~

~~2. Real property, including a copy of the deed;~~

~~3. A mortgage;~~

~~4. A note;~~

~~5. A lien and encumbrance;~~

~~6. Tax documentation including income tax information;~~

~~7. A bank statement;~~

~~8. A picture of personal belongings; and~~

~~9. A copy of a facility personal needs statement; and~~

~~(b) Forward all financial information, including blank checks from the ward's checking account, to the Fiduciary Services Branch.~~

~~(6) The division and one (1) additional cabinet employee, if available, shall complete a physical inventory of all personal and real property.~~

~~(7) At the direction of the court, the division shall determine if it is in the best interest of the ward to liquidate or surrender a life insurance policy owned by the ward.~~

~~(8) Within thirty (30) working days of court notification of the cabinet's appointment authorizing the management or disposal of the ward's assets, the division shall:~~

~~(a) Obtain a copy of the deed for any real property owned or co-owned by the ward;~~

~~(b) Obtain a copy of a mortgage or lien on the property;~~

~~(c) Determine if the ward's real property is inhabited by someone other than the ward; and~~

~~(d) Determine if there is a tenant and:~~

~~1. Contact the tenant about the cabinet's appointment;~~

~~2. Determine if there is a written lease and, if so, request a copy from the tenant;~~

~~3. Advise the tenant that a rent payment shall be made payable to CHFS and the name of the ward and mailed to the Fiduciary Services Branch at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621;~~

~~4. Advise the tenant of the cabinet's need to make a walk through inspection of the property; and~~

~~5. Complete the walk through inspection with the Field Services Branch and one (1) additional cabinet employee, if available.~~

~~(9) If the property is vacant, guardianship staff shall visit the ward's property with one (1) additional cabinet employee, if available, to secure the ward's personal and real property.~~

~~(10)(a) Unless there is lack of a ward's financial resources, the division shall secure and maintain insurance coverage on any real property.~~

~~(b) The division shall notify the court if it is not possible to maintain insurance coverage on any real property.~~

~~(11) The division shall contact the Property Valuation Administrator in the county where the real estate is located to determine the property evaluation and to see if taxes are owed and change the address for the ward's tax statement to the appropriate Field Services Branch's office address.~~

~~(12) The division shall attach a copy of the inventory of personal property to an event in the electronic case record and file the original inventory in the ward's hard copy case record.~~

~~(13) Upon receipt of the following items, the Field Services Branch shall forward the items to the Fiduciary Services Branch by certified mail insuring any negotiable items or items of value for the estimated value as follows:~~

~~(a) Any small items of value such as jewelry or coins; and~~

~~(b) Original documents related to finances or personal assets such as:~~

~~1. A will;~~

~~2. A burial policy;~~

~~3. Stocks;~~

~~4. Bonds;~~

~~5. Insurance policy; or~~

~~6. Mineral rights ownership.~~

~~(14) The Field Services Branch shall document in the ward's case record an item to be transferred to the Fiduciary Services Branch and the disposition of each item.~~

~~(15) If a ward is not residing in the ward's home, or a tenant is not residing in the ward's home, the Field Services Branch shall contact a utility company providing services to:~~

~~(a) Change the billing address to an appropriate Field Services Branch's office address; and~~

~~(b) Request that the utility be disconnected, if appropriate.~~

~~(16) The Field Services Branch and Fiduciary Services Branch shall determine whether the property is to be maintained as rental property or to be sold and, if sold, shall follow the provisions of KRS Chapter 389A.~~

~~(17) If the ward does not have sufficient liquid assets to meet the ward's needs, the Field Services Branch shall consult with the Fiduciary Services Branch and request the ward's assets be liquidated and deposited into the ward's account.~~

~~(18) If the ward has a safety deposit box, the Field Services Branch shall:~~

~~(a) Contact the financial institution where the safety deposit box is located;~~

~~(b) Review the ward's financial resources and determine if funds are available to drill the safety deposit box if the cabinet does not have a key;~~

~~(c) Relay this information to the Fiduciary Services Branch;~~

~~(d) Attend the opening of the safety deposit box with one (1) additional cabinet employee, if available; and~~

~~(e) Inventory the box's content.~~

~~(19) If the ward does not have funds available to drill the safety box and the cabinet does not have a key, the Field Services Branch shall not pursue opening the safety deposit box.~~

~~Section 7. Confidentiality.~~

~~(1) The cabinet shall ensure the confidentiality of all records and reports that directly or indirectly identify current or former wards.~~

~~(2) Prior to release of information, the cabinet shall use discretion in considering whether:~~

~~(a) Disclosure of the information is permissible under federal and state statutes, including the federal Health Insurance Portability and Accountability Act privacy rule as promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. 160 to 164;~~

~~(b) The person requesting the information is an authorized representative of a federal, state, or local government agency with a legitimate interest in the ward;~~

~~(c) The person requesting the information is a representative of an agency with which the cabinet has an agreement assuring the confidentiality of all shared information and the agency has a legitimate interest in the ward;~~

~~(d) Disclosure of the information is necessary and relevant to the issue being addressed such as:~~

~~1. Application for benefits;~~

~~2. Insurance information;~~

~~3. Sale of property;~~

~~4. Taxes; or~~

~~5. Services;~~

~~(e) Disclosure of the information is approved by the ward if the case involves partial guardianship;~~

~~(f) Disclosure of the information is beneficial for the ward such as release of information to concerned family members or to a person applying to be appointed as successor guardian;~~

~~(g) There is a court order authorizing the release of information; or~~

~~(h) There is a subpoena requesting the records.~~

~~(3) If the cabinet decides that the request for information does not meet the criteria for disclosing information and the request is specific to the ward's:~~

~~(a) Guardianship file, the cabinet shall refer the person requesting information to an open records process; or~~

~~(b) Court record, the cabinet shall refer the person requesting information to the District Court having jurisdiction.~~

~~(4) General media and publication requests for wards may be made to the cabinet.~~

~~(5) The cabinet may grant permission for publication of the ward's name, photograph, or image if:~~

~~(a) The ward grants permission;~~

~~(b) There is no harm or detrimental effect to the ward; and~~

~~(c) The ward is not identified as a ward of the cabinet.~~

~~(6)(a) In order to document abuse, neglect, injury, treatment, or for identification purposes, a provider shall seek permission of the cabinet to photograph the ward.~~

~~(b) To meet these requirements, the cabinet:~~

~~1. May give consent for the photo requests; and~~

~~2. Shall ensure the requesting service provider uses photographs only at the discretion of the division.~~

~~(7)(a) Requests for a ward's participation in research projects may be made to the cabinet.~~

~~(b) The cabinet:~~

~~1. Shall not give permission for the ward's participation in any research that is experimental, is a blind study, or involves invasive or intrusive procedures;~~

~~2. Shall seek the ward's permission to participate;~~

~~3. May give permission for participation in research that consists of a ward interview if the:~~

~~a. Cabinet's internal review board has reviewed and approved the research project in accordance with 920 KAR 1:060; and~~

~~b. Ward agrees to participate; and~~

~~4. Shall ensure that any interview of a ward related to a research request terminates immediately if the ward expresses a desire not to continue participation.~~

~~Section 8.~~] Incorporation by Reference. (1) "GF-01[~~GFS-1~~], Guardianship Information[~~Referral~~] Form", edition 09/2018[~~3/09~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

SHANNON GADD, Commissioner
ADAM MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Phyllis W. Sosa, email Phyllis.sosa@ky.gov, Phone: (502) 564-6930; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the referral process for adult guardianship/conservatorship.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the referral process for the determination of an acceptable referral and appropriate appointment to the Cabinet for guardianship/conservatorship.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The court is authorized to appoint the Cabinet for Health and Family Services as guardian or conservator to individuals who have been determined to have a disability and are unable to make their own decisions when the provisions of KRS 210.290(2)(a)-(d) have been met. KRS 387.530 provides for the application of a person or entity desiring appointment to file a petition for a determination of disability and appointment. The petition is supposed to be filed by the entity desiring appointment and should not be filed by anyone other than the Department for Aging and Independent Living when the state is to be considered for appointment, thus making the referral process a necessary requirement.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the referral process for those individuals or entities wanting to petition the court for the state to be appointed as guardian or conservator for an individual. This regulation sets out the statutory requirements for least restrictive alternatives to be exhausted, that the individual meets the criteria for state guardianship/conservatorship, and assists with the filing of a petition for those that are appropriate for appointment to the state.

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

(a) How the amendment will change this existing administrative regulation: The amendment to 910 KAR 2:020 updates definitions, the website for required court forms, clarifies eligibility for state appointed guardianship/conservatorship, clarifies the referral, petition and application process and establishes a Guardianship Referral Form.

(b) The necessity of the amendment to this administrative regulation: The amendment to 910 KAR 2:020 is necessary for the Cabinet to remain in compliance with revised statutes, to maintain operations and meet the needs of the wards. The program is currently growing at an alarming rate. This amendment helps to enforce the provisions of KRS 387.530 that only the department can submit the petition for appointment to the state guardianship program rather than allowing anyone to submit it on the behalf of the department.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment clarifies and establishes standards for and referring individuals to guardianship for determination of program eligibility for filing a petition with the court.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide guidance to Cabinet staff to implement the requirements of the KRS.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Cabinet for Health and Family Services, Department for Aging and Independent Living, Department for Community Based Services and disabled adults that do not meet the eligibility criteria for guardianship, the number of individuals is unable to be determined.

(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 Department will implement the referral process, review all referrals for determination of eligibility and complete the petition for those accepted for the state guardianship program. The Department for Community Based Services will need to provide the required referral form to the Department for Aging and Independent Living (DAIL) for determination of appropriateness of referral and shall not file a petition for state guardianship without the approval of DAIL.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals that are not appropriate for guardianship will not have a petition filed and they will maintain their rights. DAIL staff will be able to review documentation submitted and make a determination of eligibility. With fewer inappropriate appointments to the cabinet the costs of operating the programs should reduce but the primary focus is for individuals that are capable of making their own decision to retain their rights.

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

(a) Initially: Initially there are no additional costs to implement this amended regulation, the current annual budget for guardianship is $8,000,000.00, funded 100% through state general funds. The budget is 100% for staffing the program, there are no monies for the provision of services to individuals.

(b) On a continuing basis: There are no additional costs to implement this amended regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The guardianship program is funded 100% through state general funds for the provision of staffing. No funding is provided for services to wards other than their own funds or benefits for which they are eligible.

(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 increased funding is necessary to implement this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There are no fees established or increased by this regulation.

(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? The Cabinet for Health and Family Services, Department for Aging and Independent Living, and the Department for Community Based Services.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 387.600(1), KRS 202A, 202B, 209.990, 210.290(3), (4), 387.97524, 367.97527, 387.500-387.990, 389A.010, 389.015, 20 C.F.R., 416.212, 42 U.S.C. 1382(e)(1)(G)

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

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

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

(c) How much will it cost to administer this program for the first year? For FY 2019, the program will cost $8,000,000.00 in state general funds. There is no increase in cost to administer the program, by virtue of this administrative regulation. It is anticipated that amending this administrative regulation will reduce the cost of operation due to a decrease in the number of inappropriate appointments.

(d) How much will it cost to administer this program for subsequent years? In subsequent years, $8,000,000 in state general funds will be required to administer this program. If the guardianship program continues to operate at status quo the cost will continue to increase. If the proposed amended regulation is implemented and enforced the costs of the program will hold steady or potentially decrease.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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

922 KAR 1:310. Standards for child-placing agencies.

RELATES TO: KRS 2.015, 17.165, 17.500(8), 158.135(1)(c), 189.125, 194A.060, 199.011, 199.430(3), 199.470, 199.492, 199.493, 199.510, 199.520, 199.570, 199.572, 199.590, 199.640, 199.645, 199.650-199.670, 258.015, 258.035, 273.161(8), 311.720(9), 311.840(3), 314.011(5), (7), 503.110(1), 527.100, 527.110, 600.020, 605.090(1), 610.110(6), 610.125, 615.010-615.990, 620.030, 620.090(2), 620.140(1)(d), 620.230(3), Chapter 625, 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 672, 677(a), 14901-14954

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.150(1) authorizes[~~permits~~] the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes basic standards for child-placing agencies.

Section 1. Definitions. (1) "Adequate supervision" means adult oversight of a child's activities with consideration of the child's past and current:

(a) Incidents;

(b) High risk behaviors; and

(c) Needs.

(2) "Adoption" means the legal process by which a child becomes the child of a person or persons other than biological parents.

(3) "Adoptive home" means a home in which the family has been approved by the child-placing agency to adopt a child.

(4) "Aftercare" means services provided to the child after

discharge from a child-placing agency.

(5) "Applicant" means an individual or a family subject to approval by the child-placing agency as a:

(a) Foster home; or

(b) Adoptive home.

(6) "Board of directors" is defined by KRS 273.161(8).

(7) "Case management" means a process whereby a state agency or child-placing agency assesses the individualized needs of a child or family, arranges for the provision of services, and maintains documentation of actions and outcomes.

(8) "Child" means:

(a) A child as defined by KRS 199.011(4) and 600.020(9)[~~600.020(8)~~];

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(9) "Child with medical complexity" means a child who is determined to have a medical condition pursuant to 922 KAR 1:350, Section 4(1)(b).

(10) "Child-placing agency" is defined by KRS 199.011(6)[~~199.011(7)~~].

(11) "College or university" means:

(a) An institution accredited by one (1) of the eleven (11) regional accrediting organizations recognized by the U.S. Department of Education, Office of Postsecondary Education;

(b) For a Kentucky institution, one (1) that is licensed by the Kentucky Council on Postsecondary Education or the Kentucky Board for Proprietary Education; and

(c) For an out-of-state institution, one (1) that is licensed in its home state if licensure is required in that state.

(12) "Executive director" means the person employed by the board of directors to be responsible for the overall administration and management of a child-placing agency.

(13) "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(10)[~~199.011(9)~~] and 600.020(30)[~~600.020(28)~~], if referring to a physical structure; or

(b) Any individual approved as a foster parent by the child-placing agency, if referring to an individual.

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

(a) Physician as defined by KRS 311.720(12)[~~311.720(9)~~];

(b) Physician assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

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

(15) "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker that meets the requirements specified in Section 4(3) of this administrative regulation.

(16) "Independent living program" means a planned program that:

(a) Is licensed by the cabinet and designed to teach a child age sixteen (16) or older life skills that enable a child to become self-sufficient; and

(b) Meets requirements specified in 922 KAR 1:340.

(17) "Independent living services" means services provided to an eligible child, as described in Section 16 of this administrative regulation, to assist the child in the transition from dependency of childhood to living independently.

(18) "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.

(19) "Mental health treatment" means services provided to an individual determined to have emotional, mental, or behavioral problems.

(20) "Placement" means:

(a) The physical relocation of a child removed from the child's home of origin with a provider of out-of-home services; or

(b) A foster or adoptive home that has been approved by completing an application process, home study, and required preparation.

(21) "Program director" means the person responsible for supervising the day-to-day operation of the program.

(22) "Respite care" means temporary care provided by another individual or family that meets requirements specified in Section 13 of this administrative regulation to provide relief to a foster care parent, therapeutic foster care parent, or medically complex foster parent with the expectation that the child shall[~~will~~] return to the foster home.

(23) "Sex crime" is defined by KRS 17.500(8).

(24) "Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and the individual's environment.

(25) "Social services worker" means a person retained by a child-placing agency who meets the qualifications as specified in Section 2(4)(c) of this administrative regulation.

(26) "Supervision plan" means a written supplement to a child's ITP, developed pursuant to Section 6(7)(b)2 of this administrative regulation, that details a child-placing agency's roles and responsibilities to assure adequate supervision of a child in the agency's care, including those roles and responsibilities delegated to a foster home parent.

(27) "Therapeutic foster care" is defined by KRS 158.135(1)(c).

(28) "Therapeutic services" means clinical or supportive services provided to a child with severe emotional or behavioral needs.

(29) "Treatment director" means an individual who meets the qualifications as specified in Section 2(4)(d) of this administrative regulation.

Section 2. Administration and Operation. (1) Licensing procedures.

(a) Licensing procedures for a child-placing agency shall be administered pursuant to 922 KAR 1:305.

(b) An independent living program shall be an optional component of the child-placing agency's license in accordance with 922 KAR 1:340.

(c) A child-placing agency shall obtain accreditation within two (2) years of initial licensure or within two (2) years of acquiring an agreement with the cabinet to provide private child care services, whichever is later. Accreditation shall be from a nationally-recognized accreditation organization, such as:

1. The Council on Accreditation;[~~or~~]

2. The Joint Commission on Accreditation for Healthcare Organizations; or

3. The Commission on Accreditation of Rehabilitation Facilities.

(d) The cabinet shall revoke a license if a child-placing agency fails to:

1. Become accredited in accordance with paragraph (c) of this subsection; or

2. Maintain accreditation.

(e) The child-placing agency shall provide proof of accreditation to the Office of Inspector General, Division of Regulated Child Care:

1. Upon receiving initial accreditation; and

2. At the time of annual inspection for re-licensure.

(2) Board of directors. The child-placing agency shall have a board of directors, or an advisory board if the child-placing agency is a privately-held for-profit organization, that shall:

(a) Consist of a minimum of seven (7) members;

(b) Meet at least quarterly;

(c) Cause minutes of the meeting to be taken and kept in written form;

(d) Be responsible for and have the authority to ensure the continuing compliance with the requirements established by this administrative regulation;

(e) Approve a mission statement;

(f) Establish and revise, when necessary, the child-placing agency's:

1. Purpose;

2. Objective;

3. Scope of services to be provided; and

4. Intake policy specifying the type of child to be accepted for

care;

(g) Hire, supervise, and annually evaluate the executive director of the child-placing agency; and

(h) Delineate in writing the duties of the executive director.

(3) Executive director.

(a) The executive director shall:

1. Be responsible for the child-placing agency and its affiliates, pursuant to the child-placing agency's written policies and procedures;

2. Oversee all aspects of the child-placing agency; and

3. Report to the board, on a quarterly basis, the following:

a. Evaluation of program services;

b. Measurement of attainment of the objective established pursuant to subsection (2)(f)2 of this section;

c. Staff training; and

d. Incident reports.

(b) The criteria and process of the evaluation required in paragraph (a)3a of this subsection shall be approved by the board annually.

(c) If the executive director is not available on the premises or accessible by telephone, a designated staff person shall be responsible for the day-to-day operation of the child-placing agency.

(4) Staff qualifications.

(a) An executive director shall possess the following qualifications:

1.a. A master's degree from a college or university in any of the following human services fields:

(i) Social work;

(ii) Sociology;

(iii) Psychology;

(iv) Guidance and counseling;

(v) Education;

(vi) Religious education;

(vii) Business administration;

(viii) Criminal justice;

(ix) Public administration;

(x) Child-care administration;

(xi) Nursing;

(xii) Family studies; or

(xiii) Another human service field related to working with families and children; and

b. Two (2) years of work experience in a human services program; or

2.a. A bachelor's degree with a major in a discipline designated in subparagraph 1 of this paragraph; and

b. Four (4) years of work experience in a human services program.

(b) A licensed child-placing agency shall have one (1) member of the social work staff designated as program director who shall hold:

1. A master's degree from a college or university in social work or in a discipline designated in paragraph (a)1 of this subsection; or

2.a. A bachelor's degree from a college or university in social work or in a discipline designated in paragraph (a)1 of this subsection; and

b. At least two (2) years of professional experience in working with a child or family.

(c) A social services worker shall:

1. Be responsible for planning and coordinating services to a child; and

2. Hold at least a bachelor's degree from a college or university in social work or a human services field.

(d) A treatment director shall:

1. Oversee the day-to-day operation of the treatment program, including:

a. Reviewing all client treatment plans;

b. Providing face-to-face supervision to therapists under the treatment director's supervision at least twice per month;

c. Remaining accessible to therapists at all times to provide consultation; and

d. Reviewing any critical incidents, including debriefs with involved staff;

2. Hold at least a master's degree from a college or university in a human services discipline; and

3. Have at least five (5) years of total experience in mental health treatment, with a minimum of three (3) years of experience in mental health treatment of children with emotional or behavioral disabilities and their families.

(e)1. A child-placing agency contracting for the service of a social services worker not an employee of the child-placing agency shall obtain documentation that the social services worker meets the qualifications in paragraph (c) of this subsection.

2. An agreement for this provision of service shall be on file at the child-placing agency and shall specify the qualifications of the social services worker.

(f) The program director shall supervise social services workers.

(g) A treatment director shall carry out approval and evaluation of services.

(h)1. Social services workers shall not carry a caseload of more than twenty (20) children.

2. If a social services worker carries a caseload of children in some combination of foster care, therapeutic foster care, medically complex foster care, or an independent living program, the allowable caseload for the social services worker shall be determined by:

a. Dividing the number of children in each placement type on the worker's caseload by the maximum caseload for the placement type to derive a percentage;

b. Adding each percentage calculated in clause a. of this subparagraph to derive a sum; and

c. Maintaining the sum derived in clause b. of this subparagraph at or below 100 percent.

(5) Personnel policy.

(a) A child-placing agency shall have and comply with written personnel policies and procedures.

(b) An employee shall:

1. Be at least eighteen (18) years of age;

2. Submit to a criminal background check in accordance with KRS 17.165 and a central registry check in accordance with 922 KAR 1:470; and

3. Submit to a new criminal background check in accordance with KRS 17.165 and central registry check in accordance with 922 KAR 1:470 once every two (2) years.

(c)1. If a substantiated finding of abuse, neglect, or exploitation of a child has been made against a person, a child-placing agency shall not employ the person or allow the person to volunteer in a position involving direct contact with a child.

2. The cabinet shall respond to allegations of abuse, neglect, or exploitation of a child in accordance with 922 KAR 1:330 and 922 KAR 1:480.

(d) A current personnel record shall be maintained for an employee that includes the following:

1. Name, address, Social Security number, date of employment, and date of birth;

2. Evidence of qualifications, including degree from a college or university, current registration, certification, or licensure;

3. Record of participation in staff development;

4. Record of performance evaluation;

5. Criminal records and central registry checks pursuant to paragraph (b)2 and 3 of this subsection;

6. Record of a physical exam related to employment, as specified in the child-placing agency's policies and procedures;

7. Personnel action;

8. Application for employment, resume, or contract; and

9. Evidence of personnel orientation.

(e) A child-placing agency shall have an ongoing staff development program under the supervision of a designated staff member.

(f) An employee under indictment, legally charged with felonious conduct, or subject to a cabinet investigation in accordance with 922 KAR 1:330 shall:

1. Be immediately removed from contact with a child; and

2. Not be allowed to work with a child until:

a. A prevention plan has been written and approved by a

designated regional cabinet staff;

b. The person is cleared of the charge; or

c. A cabinet investigation reveals an unsubstantiated finding, if the charge resulted from an allegation of child:

(i) Abuse;

(ii) Neglect; or

(iii) Exploitation.

(g) Unless the volunteer is a practicum student, a volunteer who performs a similar function as paid staff described in subsection (4) of this section shall meet the same requirements and qualifications.

(h) Practicum students and volunteers shall submit to a background check and any other mandatory requirements listed in subsection (5)(b) and (c) of this section.

(i) A current personnel record shall be maintained for a practicum student or volunteer that includes the following:

1. Name, address, Social Security number, starting date, and date of birth;

2. Evidence of qualifications if the volunteer performs a similar function as paid staff; and

3. Criminal records and central registry checks pursuant to paragraph (h) of this subsection.

(6) Physical management. If a child-placing agency uses physical management, the agency shall have established guidelines and policies governing the use of physical management that shall be:

(a) Consistent with accreditation standards; and

(b) In accordance with 922 KAR 1:300.

(7) Notifications. A licensed child-placing agency shall provide written notification within one (1) week to the Office of Inspector General, Division of Regulated Child Care when there is a change in the following leadership staff:

(a) Executive director;

(b) Program director; or

(c) Treatment director.

Section 3. Interstate Placement. (1) Prior to accepting a child from another state or prior to placing a child outside Kentucky, a child-placing agency shall comply with:

(a) KRS 615.030 to 615.040, Interstate Compact on Placement of Children;

(b) KRS 615.010, Interstate Compact for Juveniles; and

(c) 42 U.S.C. 671(a)(23).

(2) A child-placing agency shall comply with subsection (1) of this section if a child placed with the child-placing agency visits or receives respite care in another state for a period to exceed:

(a) Thirty (30) days; or

(b) The child's school vacation period as ascertained from the academic calendar of the school.

(3) If an emergency placement of a child into a licensed child-placing agency is made, the placement source shall be responsible for compliance with KRS 615.030 to 615.040.

Section 4. Evaluation of an Applicant. (1) A child-placing agency's social services staff shall recruit a prospective foster or adoptive home.

(2) A child-placing agency shall:

(a) Complete a home study; and

(b) Approve the home prior to the placement of a child.

(3) Documentation of the home study shall include the following:

(a) A minimum of two (2) home visits for the purpose of conducting:

1. One (1) interview with each of the household members individually to assess each member's attitude toward the placement or adoption of a child; and

2. One (1) family consultation with all household members present to observe the functioning of the applicant's household, including interpersonal relationships and patterns of interaction;

(b) Proof of the applicant's:

1. Identity, such as a federally or state-issued photo identification card;

2. Age of twenty-one (21) years or older, unless an exception is granted pursuant to subsection (4) of this section; and

3. United States citizenship or legal immigrant status as described in 8 U.S.C. 1151;

(c) A statement for each member of the applicant's household that shall:

1. Be signed by a health professional who is not a member of the applicant's household; and

2. Verify that the individual:

a. Is free of a communicable or infectious disease; and

b. Has no illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(d) A signed statement by a health professional who is not a member of the applicant's household regarding the applicant's physical ability to provide necessary care for a child.

1. All household members shall disclose mental health and substance abuse issues, including any history of drug or alcohol abuse treatment; and

2. The private child placing agency shall require further documentation or evaluation to determine the suitability of the home if there is an indicator of current or past mental health or substance abuse issues;

(e) Verification that the applicant has a source of income separate from:

1. Foster care reimbursement; or

2. Adoption assistance;

(f) Documentation of references to include:

1.a. The name of three (3) personal references including[~~who~~]:

(i) One (1) relative[~~a. Are not related to the applicant~~]; and

(ii) Two (2) non-relatives.

b. The references required by clause a. of this subparagraph [~~(i)~~] shall:

(i) Be interviewed by the child-placing agency staff in person or by telephone; or

(ii)[~~Shall~~] Provide letters of reference for the applicant; and

2. Two (2) credit references or a credit report;

(g) Verification that the applicant's financial stability has been assessed and approved in accordance with a child-placing agency's written policies and procedures;

(h) Documentation of an in-person or telephone interview with each adult child of the applicant, who does not live in the applicant's home, regarding the applicant's parenting history unless a documented exception exists and is approved by the program director due to inaccessibility;

(i) If applicable, verification from the applicant regarding a:

1. Previous divorce;

2. Death of a spouse; or

3. Present marriage;

(j) If the applicant does not have custody of the applicant's own child:

1. A copy of a visitation order, if applicable;

2. A copy of a child support order, if applicable; and

3. Proof of current payment of child support, if applicable;

(k) Proof that the child-placing agency performed background checks on the applicant and any member of the applicant's household as required by[~~in accordance with criteria established in~~] 922 KAR 1:490;

(l) Documentation that the applicant has access to:

1. Transportation that meets the child's needs, including restraint requirements pursuant to KRS 189.125;

2. School;

3. Recreation;

4. Medical care; and

5. Community facilities;

(m) If an applicant or household member shall[~~will~~] be transporting a foster child:

1. Proof that the individual possesses a valid driver's license and has automobile or driver's insurance coverage; and

2. Documentation that the applicant or household member shall abide by passenger restraint laws;

(n) Documentation that the applicant's home:

1. Does not present a hazard to the health and safety of a child;

2. Is well heated and ventilated;

3. Complies with state and local health requirements regarding

water and sanitation; and

4. Provides access to indoor and outdoor recreation space appropriate to the developmental needs of a child placed in the applicant's home;

5. Provides functioning kitchen facilities; and

6. Provides a functioning bathroom, including a:

a. Toilet;

b. Sink; and

c. Bathtub or shower.

(o) Verification that the requirements established by this paragraph are being followed.

1. More than four (4) children, including the applicant's own children, shall not share a bedroom;

2. Thorough consideration shall be given to age, gender, and background if children share a bedroom;

3. Children of different genders over the age of five (5) shall not share a bedroom unless an exception has been granted to facilitate the placement of a sibling group and no high-risk behaviors are present that would require separation;

4. A bedroom used by a child in the custody of a state agency shall be comparable to other bedrooms in the house; and

5. A foster parent shall not share a bedroom with a child in the custody of a state agency, unless prior approval is obtained from the state agency based on the needs of the child;

(p) Verification that an individual bed:

1. Is provided for each child in the home;

2. If the child is under age one (1), is a crib that meets the Consumer Products Safety Commission Standards pursuant to 16 C.F.R. 1219-1220;

3. Is age and size appropriate for the child; and

4. Has a mattress that:

a. Meets current Consumer Products Safety Commission Standards in 16 C.F.R. Parts 1632 and 1633;

b. Is in good repair; and

c. Has a clean, fitted sheet that shall be changed:

(i) Weekly; or

(ii) Immediately if it is soiled or wet;

(q) Verification that the following are inaccessible to a child:

1. Alcoholic beverages;

2. Poisonous or hazardous materials;

3. Ammunition and firearms in accordance with KRS 527.100 and 527.110;

4. An animal that presents a danger to a child; and

5. Medication unless an exception is granted pursuant to subsection (10) of this section;

(r) Proof that the applicant has:

1. First aid supplies [~~with unexpired dates~~] available and stored in a place easily accessible by the foster parent;

2. An accessible[~~A~~] working telephone;

3. A working smoke alarm within ten (10) feet of each bedroom and on each floor of the home;

4. A working carbon monoxide detector in a home with gas heating or appliances; and

5. Any household animal vaccinated in accordance with KRS 258.015 and 258.035;

(s) If a business open to the public adjoins the applicant's household, consideration of potential negative impacts on the child and family, including:

1. Hours of operation;

2. Type of business; and

3. Clientele;[~~and~~]

(t) Safety precautions related to an accessible swimming pool, if applicable; and

(u) If an applicant was approved to foster or adopt a child by another child placing agency or the cabinet and the applicant's home was closed:

1. Verification of the closure; and

2. A statement to indicate whether the closure was at the request of the applicant or the agency.

(4) Exception to subsection (3)(b)2 of this section shall be granted if the applicant is:

(a) Between eighteen (18) and twenty-one (21) years of age;

(b) A relative of the child to be placed in the applicant's home; and

(c) Able to meet the needs of the child to be placed in the applicant's home.

(5) For each potential applicant evaluated, a child-placing agency shall keep a written record of the findings of the home study and the evidence on which the findings are based.

(6)(a) A child-placing agency shall request written approval from the state agency with custody of the child, for the foster home to provide services as a:

1. Certified provider of Supports for Community Living in accordance with 907 KAR 12:010[~~1:145~~];

2. Therapeutic foster care provider for adults in accordance with 907 KAR 12:010[~~3:030~~];

3. Certified family child-care home in accordance with 922 KAR 2:100; or

4. Licensed child-care center in accordance with 922 KAR 2:090.

(b) An approved foster home shall not simultaneously be used as a licensed or certified health care or social service provider for a child in the foster home's care.

(7)(a) An employee of the department who provides protection and permanency services shall be considered for approval as[~~prohibited from becoming~~] a foster parent or respite care provider for a child in the custody of the cabinet if prior approval by the commissioner or designee is granted in writing through the service region administrator or designee in the region of the employment.

(b) If approval is granted, the private child-placing agency shall not place children from within the region of employment unless:

1. The employee is related to the child; or

2. The employee is determined to be fictive kin as the result of a relationship developed outside of employment prior to the child being placed in the custody of the cabinet[~~, unless the:~~

~~(a) Employee was a foster parent or respite care provider for the child at the time employment with the department in protection and permanency services began; and~~

~~(b) Commissioner approves, in writing, the employee to be a foster parent or respite care provider for the child~~].

(8) An employee of the department who provides protection and permanency services may apply to adopt a child in the custody of the cabinet if the commissioner approves, in writing, the employee to adopt.

(9)(a) A child-placing agency shall develop written policies and procedures regarding employees of the child-placing agency serving as:

1. A foster parent;

2. An adoptive parent; or

3. A respite care provider.

(b) Policies and procedures developed in accordance with paragraph (a) of this subsection shall address the prevention or appearance of:

1. A conflict of interest; or

2. Misuse of influence.

(10) A child-placing agency may make an exception to subsection (3)(q)5 of this section if:

(a) The exception is documented in the ITP of a child placed in the foster or prospective adoptive home;

(b)1. The child is approved by a health professional to self-administer medicine under the supervision of the foster or prospective adoptive parent or other caretaker; or

2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and

(c) Measures are taken to prevent unauthorized access by another child in the same home.

(11) If an applicant is approved as a foster home, adoptive home, or respite care provider by a state agency or another child-placing agency, a child-placing agency shall:

(a) Conduct a home study in accordance with subsections (2), (3), and (5) of this section; and

(b) Document that the applicant meets training requirements in accordance with Section 5, 7, 10, 13, or 18 of this administrative regulation. If an applicant lacks training in accordance with this

paragraph, the child-placing agency shall, prior to placement of a child in the home:

1. Provide training in accordance with Section 5, 7, 10, 13, or 18 of this administrative regulation; or

2.a. Develop an individualized curriculum to fulfill unmet training needs; and

b. Document the applicant's compliance with the individualized curriculum.

Section 5. Orientation and Preparation of a Foster Home. (1) With the exception of training requirements specified in 922 KAR 1:495 for a foster home that cares for a child in the custody of the cabinet, a child-placing agency shall:

(a) Develop and maintain an orientation and preparation curriculum to be kept on file;

(b) Provide a minimum of twenty-four (24) hours of orientation and preparation to a prospective foster parent, to include the following:

1. Child-placing agency program description with mission statement;

2. Information about the rights and responsibilities of the home;

3. Background information about the foster child and the child's family, including information in accordance with KRS 605.090(1)(b);

4. An example of an actual experience from a foster parent that has fostered a child;

5. Information regarding:

a. The stages of grief;

b. Identification of the behavior linked to each stage;

c. The long-term effect of separation and loss on a child;

d. Permanency planning for a child, including independent living services;

e. The importance of attachment on a child's growth and development and how a child may maintain or develop a healthy attachment;

f. Family functioning, values, and expectations of a foster home;

g. Cultural competency;

h. How a child enters and experiences foster care, and the importance of achieving permanency; and

i. The importance of birth family and culture and helping children leave foster care;

6. Identification of changes that may occur in the home if a placement occurs, to include:

a. Family adjustment and disruption;

b. Identity issues; and

c. Discipline issues and child behavior management; and

7. Specific requirements and responsibilities of a foster parent; and

(c) Maintain an ongoing foster home preparation and training program that:

1. Provides a minimum of six (6) hours of foster home training annually; and

2. Maintains a record of preparation and training completed.

(2) Training provided in accordance with 922 KAR 1:495 may be utilized for a foster home that does not care for a child in the custody of the cabinet if the governmental agency or individual with oversight of the child approves the training.

Section 6. Placement, Case Management, and Supervision of a Child in a Foster Home, Medically Complex Foster Home, or Therapeutic Foster Care Home. (1) A child-placing agency shall:

(a) Place a child only in an approved foster home; and

(b) Keep a child who has been committed to the Department of Juvenile Justice for the commission of a sex crime in a separate foster home or prospective adoptive home from a child committed to the cabinet in accordance with KRS 605.090(1), 620.090(2), and 620.230(3).

(2) A child-placing agency shall select a foster home for a child based upon the individual needs of the child, including:

(a) The child's assessment and ITP, if available;

(b) Any information concerning the child's needs in placement; and

(c) Measures to support the safety of the child, such as a placement restriction in accordance with subsection (1)(b) of this section or another child in the foster home.

(3) A child shall participate in the intake process to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

(4) Unless an exception is granted pursuant to subsection (6) of this section, the number of children residing in a foster home shall not exceed six (6)[~~five (5)~~], including the foster parent's own children living in the home.

(5) Unless an exception is granted pursuant to subsection (6) of this section, a child-placing agency shall have a maximum of two (2) children under two (2) years of age placed in the same foster home at the same time, including children placed in the custody of the cabinet and the foster parent's own children.

(6)(a) Justification for an exception to subsection (4) or (5) of this section shall be:

1. Documented in the foster parent file; and

2. Authorized by the program director because a plan is in place with the foster parent to ensure that the needs of all children in the home are met.

(b) For a foster home that cares for a child in the custody of the cabinet, the child-placing agency shall submit a DPP-112B, Private Child-Placing Agency Placement Exception Request, for an exception to subsection (4) or (5) of this section to designated cabinet staff prior to the placement documenting:

1. The reason the placement is in the best interest of the child; and

2. Specific support services to be provided.

(c) The number of foster children residing in a foster family home may exceed the limitation established in subsection (4) of this section with documentation on the DPP-112B in order to allow:

1. A parenting youth in foster care to remain with the child of the parenting youth;

2. Siblings to remain together;

3. A child with an established meaningful relationship with the family to remain with the family;

4. A family with special training or skills to provide care to a child who has a severe disability; or

5. Other circumstances noted in the DPP-112B and approved by the service region administrator or designee.

(d) If an exception to subsection (4) or (5) of this section is necessary for a placement to occur outside of normal business hours:

1. The child-placing agency shall verbally provide all information contained within the DPP-112B to designated cabinet staff prior to the placement;

2. A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and

3. The completed DPP-112B shall be submitted on the first business day following placement.

(7) A child-placing agency shall:

(a) Assess a child to be placed in foster care;

(b) Within thirty (30) days of a child's placement, develop:

1. An ITP:

a. Based upon the individual strengths and needs of the child and, if appropriate, the child's family, which addresses the:

(i) Visitation, health, and educational needs of the child;

(ii) Child's permanency goals and related objectives;

(iii) Methods for accomplishing each goal and objective; and

(iv) Designation of an individual or individuals responsible for completion of each goal and objective; and

b. With the child and the child's parent:

(i) That includes offering the child the opportunity to sign the ITP signifying the child's understanding; and

(ii) Unless a circumstance exists which precludes engagement of the child or the child's parent from occurring and is documented in the child's case record; and

2. A supervision plan for the child which:

a. Is attached to the child's ITP;

b. Identifies the current supervision needs of and expectations for the child based upon the child's recent and past:

(i) Incidents;

(ii) High-risk behaviors; and

(iii) Needs identified in the assessment conducted pursuant to paragraph (a) of this subsection;

c. Includes goals and objectives for the child's improvement with tasks assigned to the child-placing agency and foster home parent;

d. Is signed and dated by the social service worker and foster home parent; and

e. Remains a part of the child's record;

(c) Review a child's ITP and supervision plan on a quarterly basis or more frequently as the child's needs or circumstances dictate;

(d) Have a written agreement with the foster home stating the:

1. Responsibilities of the:

a. Child-placing agency; and

b. Foster home; and

2. Terms of each placement;

(e) Require a foster home to certify, in writing, that supervision from the child-placing agency or the state agency, which has custody of the child, shall be allowed;

(f) Document a placement in the foster home file;

(g) Report immediately to the state agency which has custody of the child if there is:

1. A hospitalization or life-threatening accident or illness;

2. An absence without official leave;

3. A suicide attempt;

4. Criminal activity by the child;

5. Death;

6. Possession of a deadly weapon by a child;

7. Change in address;

8. Change in the number of people living in the home; or

9. Significant change in the foster home, such as changes in health or income status of an individual living in the foster home;

(h) Establish policies and procedures for supervision of a foster home by a worker other than the social services worker assigned to the foster home, who meets qualifications specified in Section 2(4)(c) of this administrative regulation to:

1. Include:

a. Frequency of an in-home visit with the foster parent;

b. Means of supervision;

c. Methods of supervision; and

d. Personnel conducting the supervision;

2. Ensure a foster child's placement stability and safety; and

3. Be individualized, as needed, for the:

a. Child; or

b. Foster home;

(i) Identify and make available necessary supports to a foster home, including:

1. A plan for respite care in accordance with Section 13 of this administrative regulation;

2. Twenty-four (24) hour crisis intervention; and

3. A foster home support group;

(j) Assure that a child receives care and services, including independent living services:

1. In accordance with Section 16 of this administrative regulation; and

2. As prescribed by the child's needs as assessed in the child's ITP;

(k) Provide information to a foster parent regarding the behavior and development of the child placed by the child-placing agency;

(l) Inform the foster parent, in accordance with KRS 605.090(1)(b), of:

1. Inappropriate sexual acts or sexual behavior of the child as specifically known to the child-placing agency; and

2. Any behaviors of the child that indicate a safety risk for the placement;

(m) Document each effort to:

1. Protect the legal rights of the family and the child; and

2. Maintain the bond between the child and the child's family, in accordance with the child's permanency plan;

(n) Assure that a child shall have, for the child's exclusive use, clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(o) Be responsible for monitoring the child's school progress and attendance;

(p) Secure psychological and psychiatric services, vocational counseling, or other services if indicated by the child's needs;

(q) Reassess and document quarterly, in the child's ITP, placement and permanency goals, including independent living services, in accordance with Section 16 of this administrative regulation;

(r) Conduct and document a face-to-face visit with the child at least once per month; and

(s) Maintain foster care records in accordance with Section 17 of this administrative regulation.

(8) Without prior notification to and written authorization from the Kentucky Interstate Compact Administrator, a child shall not be:

(a) Placed with a family that normally resides in another state; or

(b) Permitted to go with a person to take up residence in another state.

(9)(a) An approved foster home in use shall be evaluated on an annual basis for compliance with responsibilities listed in the written agreement described in subsection (7)(d) of this section.

(b) Results shall be recorded in the foster parent file.

(10) Factors that shall result in a review of a foster home shall include:

(a) Death or disability of a family member;

(b) Sudden onset of a health condition that impairs a foster parent's ability to care for a child placed in the home;

(c) Change in marital status or home address;

(d) Sudden, substantial decrease in, or loss of, income;

(e) Child birth;

(f) Use of a form of punishment that includes:

1. Cruel, severe, or humiliating actions;

2. Corporal punishment inflicted in any manner;

3. Denial of food, clothing, or shelter;

4. Withholding implementation of the child's ITP;

5. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; and

6. Assignment of extremely strenuous exercise or work;

(g) A report of abuse, neglect, or dependency that results in a finding that is:

1. Substantiated; or

2. Reveals concern regarding the care of the child;

(h) If the foster parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense;

(i) An incident required to be reported in accordance with subsection (7)(g) of this section and Section 12(6) of this administrative regulation; or

(j) Other factors identified by a child-placing agency that jeopardize the physical, mental, or emotional well-being of the child.

(11) The documentation of a review, specified in subsection (10) of this section, shall contain:

(a) Identifying information;

(b) Current composition of the household;

(c) Description of the situation that initiated the review;

(d) An assessment of the family functioning to determine if the child's needs are met; and

(e) Corrective action that may include a recommendation for closure of the foster home.

Section 7. Orientation and Preparation of a Therapeutic Foster Care Home. (1) A child-placing agency shall maintain the orientation and preparation curriculum on file.

(2) Unless a therapeutic foster care home cares for a child in the custody of the cabinet and is subject to training requirements specified in 922 KAR 1:495, a child-placing agency shall provide a minimum of thirty-six (36) hours of orientation and preparation for a prospective therapeutic foster care parent that shall incorporate the following topic areas:

(a) Child-placing agency program description with mission statement;

(b) Information about the rights and responsibilities of the therapeutic foster care home;

(c) Background information about a foster child and the child's family;

(d) An example of an actual experience of a therapeutic foster care parent that has fostered a child;

(e) Stages of grief;

(f) Behaviors linked to each stage of grief;

(g) Long-term effects on a child from separation and loss;

(h) Permanency planning for a child, including independent living services;

(i) Importance of attachment on a child's growth and development and the way a child maintains and develops a healthy attachment, including attachment disorder and associated behaviors;

(j) Family functioning, values, and expectations of a therapeutic foster care home;

(k) Changes that may occur in the home with placement of a child regarding:

1. Family functioning;

2. Family adjustment;

3. Identity issues;

4. Discipline issues and child behavior management; and

5. Family disruption;

(l) Specific requirements and responsibilities of a therapeutic foster care home;

(m) Behavior management;

(n) Communication skills;

(o) Skill teaching;

(p) Cultural competency;

(q) Behavior management de-escalation techniques;

(r) The dynamics of a child who has experienced sexual abuse or human trafficking; and

(s) The effect of chemical abuse or dependence by the child or the child's biological parent.

(3) A therapeutic foster care home shall receive:

(a) A minimum of twenty-four (24) hours of annual training; or

(b) Training in accordance with 922 KAR 1:495 if the home provides care to a child in the custody of the cabinet.

(4) A child-placing agency that provides therapeutic foster care shall maintain an ongoing therapeutic foster care preparation and training program that:

(a) Provides training to meet requirements of subsection (2) of this section; and

(b) Maintains a record of preparation and training completed.

Section 8. Additional Requirements for Therapeutic Foster Care. (1) A therapeutic foster care home shall accommodate the needs of a child who is unable to live with the child's own family and who:

(a) May benefit from care in a family setting; and

(b)1. Has clinical or behavioral needs that exceed supports available in a foster home; or

2. Is transitioning from group care as part of the process of returning to family and community.

(2) Unless an exception is granted pursuant to subsection (3) of this section, the number of children residing in a therapeutic foster care home that does not care for a child in the custody of the cabinet shall be limited to a total of five (5) children, including no more than two (2) therapeutic foster care children.

(3) Justification for an exception to subsection (2) of this section shall be:

(a) Documented in the therapeutic foster care parent's file; and

(b) Authorized by the treatment director because a plan is in place with the foster care parent to ensure that the needs of all children in the home are met.

(4) Unless an exception is granted pursuant to subsection (5) of this section, the number of children residing in a therapeutic foster care home that cares for a child in the custody of the cabinet shall be limited to a total of four (4) children, including no more than two (2) therapeutic foster care children.

(5) To make a request for an exception to subsection (4) of this section, a child-placing agency shall follow the procedure set forth in Section 6(6)(b) of this administrative regulation.

(6) A treatment director shall supervise a treatment team and shall participate in the development of the ITP and the quarterly case consultation.

(7) A child-placing agency shall provide or contract, as specified in KRS 199.640(5)(a)2, for therapeutic services individualized for the child, as needed, at least two (2) times per month.

(8) A therapeutic foster care parent shall be responsible for:

(a) Participation in the development of an assessment, ITP, and supervision plan as specified in Section 6(7) of this administrative regulation;

(b) Facilitation of in-home services provided by a social services worker at least two (2) times per month;

(c) Adequate supervision of the child and implementation of components of the ITP, including daily log documentation as specified in the ITP;

(d) Working with the child-placing agency to promote stability and avoid disruption for the child; and

(e) Working with the child-placing agency in the development of a plan for the smooth transition of the child to a new placement, if there is a disruption.

(9) Except for a child who is the legal responsibility or in the custody of the cabinet or the Department of Juvenile Justice, a child-placing agency shall be responsible for:

(a) A preplacement conference, in a nonemergency placement, for the purpose of:

1. Developing permanency goals and a discharge plan for the child, including independent living services;

2. Developing a plan for the implementation of services;

3. Identifying the treatment goals; and

4. Developing a behavior management plan if applicable; and

(b) Inviting and encouraging attendance to the preplacement conference by:

1. The prospective therapeutic foster care home;

2. A respite care provider approved in accordance with Section 13(4) of this administrative regulation;

3. The child, if appropriate; and

4. The child's family.

(10) The social services worker shall:

(a) Have a face-to-face visit with a child and therapeutic foster care parent on the day of the child's placement;

(b) Have another face-to-face visit with the therapeutic foster care parent or child within ten (10) calendar days of the child's placement;

(c) Telephone or visit, on a weekly basis, at least one (1) of the therapeutic foster care parents of each child on the therapeutic foster care worker's caseload;

(d) Visit a therapeutic foster care parent a minimum of two (2) times a month with at least one (1) visit being in the foster home;

(e) Visit the foster child face-to-face a minimum of two (2) times a month with at least one (1) visit in the therapeutic foster care home and one (1) visit outside the foster home;

(f) Carry a caseload of not more than twelve (12) therapeutic foster care children, taking into account:

1. Required responsibilities other than the case management of a child in foster care;

2. Additional support, contact, and preparation needed by a therapeutic foster care home, due to the extent of the needs of the child served;

3. The intensity of services provided to the child and the child's family; and

4. Caseload expectations established in Section 2(4)(h) of this administrative regulation;

(g) Conduct a quarterly case consultation, including the:

1. Foster home;

2. Child's public agency worker;

3. Child-placing agency treatment director and social services worker; and

4. Child and the child's family of origin, to the extent possible;

(h) Identify the support needed by the foster family, including a:

1. Plan for respite care as provided in Section 13 of this administrative regulation;

2. Plan for twenty-four (24) hour on-call crisis intervention; and

3. Foster home support group;

(i) Recommend and prepare an aftercare plan for a child, prior to discharge from therapeutic foster care, to ensure a successful transition; and

(j) Document a quarterly case consultation and revision to a child's ITP as determined by the case consultations.

(11) A child-placing agency shall:

(a) Meet requirements specified in Section 6(1) through (3) and (7) through (11) of this administrative regulation; and

(b) Annually reevaluate a therapeutic foster care home in accordance with Section 15 of this administrative regulation.

Section 9. Child With Medical Complexity. (1) A child with medical complexity shall be:

(a) A child in the custody of the cabinet; and

(b) Determined by the cabinet to meet the child with medical complexity requirements of 922 KAR 1:350.

(2) The decision to accept a child with medical complexity shall be optional to a child-placing agency.

(3) If a child placed with a child-placing agency in a non-medically complex foster home becomes medically complex in accordance with subsection (1) of this section, the Division of Protection and Permanency director or designee and child-placing agency shall reevaluate the placement and ensure the child's needs can be met.

Section 10. Preparation of a Medically Complex Foster Home. (1) A child-placing agency shall create a medically complex foster home only if the child-placing agency has:

(a) Staff meeting qualifications established in Section 2(4) of this administrative regulation supervising the home, who have received medically complex training in accordance with subsection (2)(b) and (c) of this section; and

(b) A liaison established with the cabinet.

(2) A foster home shall be approved to care for a child with medical complexity by a child-placing agency if the foster home:

(a) Includes a primary caregiver who is not employed outside the home, unless approved in writing by designated cabinet staff;

(b) Completes training as specified in 922 KAR 1:495, Section 4;

(c) Maintains certification in:

1. Infant, child, and adult CPR; and

2. First aid;

(d) Is located within a:

1. One (1) hour drive of a medical hospital with an emergency room; and

2. Thirty (30) minute drive of a local medical facility; and

(e) Is evaluated in accordance with Section 4 of this administrative regulation.

(3) If the cabinet determines that a child currently in the care of a foster parent approved by the child-placing agency is a child with medical complexity in accordance with Section 9(1) of this administrative regulation, then the cabinet shall prioritize the foster home's enrollment in training as specified in subsection (2)(b) and (c) of this section.

(4) An approved medically complex foster home shall receive annual reapproval, if the foster home:

(a) Annually completes ongoing training as specified by subsection (2)(b) and (c) of this section; and

(b) Continues to meet the requirements in Section 15 of this administrative regulation.

(5) Except for a sibling group or unless approved by designated cabinet staff in accordance with the DPP-112B, [~~no~~] more than four (4) children, including the medically complex foster parent's own children, shall <u>not</u> reside in a medically complex foster home, with no more than two (2) children being medically complex or requiring therapeutic foster care.

(6) Unless an exception is approved by designated cabinet staff in accordance with the DPP-112B, a:

(a) One (1) parent medically complex foster home shall not care for more than one (1) child with medical complexity; and

(b) Two (2) parent medically complex foster home shall not care for more than two (2) children with medical complexity.

(7) If a placement would exceed a limit established by subsection (5) or (6) of this section, a child-placing agency shall request an exception in accordance with Section 6(6)(b) of this administrative regulation.

Section 11. Placement of a Child With Medical Complexity. (1)(a) In addition to training required in Section 10(2)(b) and (c) of this administrative regulation, an approved medically complex foster parent shall receive training on how to care for the specific needs of a child with medical complexity placed in the home.

(b) The training shall be conducted by a health professional.

(2) Unless an exception is granted by the director of the Division of Protection and Permanency or designee pursuant to subsection (3)(a) of this section, a child with medical complexity shall be placed in an approved medically complex foster home.

(3) A child-placing agency shall:

(a) Request an exception to subsection (2) of this section in accordance with Section 6(6)(b) of this administrative regulation;

(b) Provide case management services:

1. As described in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and

2. In accordance with the child's:

a. Health plan developed by designated cabinet staff;

b. ITP; and

c. Supervision plan;

(c) Support the child's health plan developed by designated cabinet staff; and

(d) Conduct a face-to-face visit with the child at least two (2) times per month.

Section 12. Expectations for a Foster Home, Therapeutic Foster Care Home, or Medically Complex Foster Home. An approved foster parent, medically complex foster parent, or therapeutic foster care parent shall:

(1) Provide a child placed by the child-placing agency with a family life, including:

(a) Nutritious food;

(b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(c) Affection;

(d) Life skills development<u>, including demonstrating functional literacy</u>;

(e) Recreational opportunities;

(f) Education opportunities;

(g) Nonmedical transportation;

(h) Opportunities for development consistent with the child's religious, ethnic, and cultural heritage;

(i) Adequate supervision; [~~and~~]

(j) Independent living services for a child twelve (12) years of age or older; <u>and</u>

<u>(k) Refraining from smoking in the direct presence of a child for whom their physician recommends, in writing, a smoke-free environment.</u>

(2) Permit a child-placing agency and staff of a state agency to visit the home;

(3) Share with the child-placing agency and, if applicable, staff of the state agency which has custody of the child, information about the child placed by the child-placing agency;

(4) Notify the child-placing agency fourteen (14) calendar days prior if the home is approved to provide foster or adoptive services through another private child-placing agency or the cabinet;

(5) Notify the child-placing agency prior to:

(a) Leaving the state with a child placed by the child-placing agency for more than twenty-four (24) hours; or

(b) Allowing a child placed by the child-placing agency to be absent from the foster home for more than twenty-four (24) hours;

(6) Report immediately to the child-placing agency through which the child is placed if there is:

(a) A hospitalization or life-threatening accident or illness;

(b) An absence without official leave;

(c) A suicide attempt;
(d) Criminal activity by the child;
(e) Death of any member in the household;
(f) A child's possession of a deadly weapon;
(g) Change in address;
(h) Change in the number of people living in the home;
(i) Significant change in circumstance in the foster home; or
(j) Failure of the foster child or foster parent to comply with the supervision plan;
(7) Cooperate with the child-placing agency if child-placing agency staff arranges for a child, placed in the foster home by the child-placing agency, and the child's birth family regarding:
(a) Visits;
(b) Telephone calls; or
(c) Mail;
(8) Surrender a child or children to the authorized representative of the child-placing agency or the state agency, which has custody of the child, upon request;
(9) Keep confidential all personal or protected health information as shared by the cabinet or child-placing agency, in accordance with KRS 194A.060 and 45 C.F.R. Parts 160 and 164, concerning a child placed in a home or the child's birth family;
(10) Support an assessment of the service needs, including respite care, and the development of an ITP, including the supervision plan, of a child placed by the child-placing agency;
(11) Participate in a case planning conference concerning a child placed by the child-placing agency;
(12) Cooperate with the implementation of the permanency goal established for a child placed by the child-placing agency;
(13) Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;
(14) Facilitate the delivery of medical care to a child placed by the child-placing agency as needed, including:
(a) Administration of medication to the child and daily documentation of the administration; and
(b) Physicals and examinations for the child;
(15) Treat a child placed by the child-placing agency with dignity;
(16) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030; and
(17) Comply with general supervision and direction of the child-placing agency or, if applicable, the state agency that has custody of the child, concerning the care of the child placed by the child-placing agency.

Section 13. Respite For Foster Care, Medically Complex Foster Care, or Therapeutic Foster Care. (1) The child-placing agency shall develop written policies and procedures to address the respite care needs of a child or a foster parent.
(2) Respite care shall not be used as a means of placement for a child.
(3) Respite care shall be in accordance with Section 3(2) of this administrative regulation.
(4) The child-placing agency shall not approve a respite care provider unless the provider meets requirements specified by Section 4(3)(b), (d), and (k) through (s) of this administrative regulation.
(5) A respite care provider shall:
(a) Receive, from the agency or foster parent, preparation for placement of a child, including:
1. Information in accordance with KRS 605.090(1)(b); and
2. Information regarding the supervision plan of the child;
(b) Provide adequate supervision in accordance with the child's supervision plan;
(c)1. Give relief to a foster parent caring for a child; or
2. Provide for an adjustment period for a child;
(d) Meet the requirements of Section 6(4) through (6) of this administrative regulation; and
(e) Meet the requirements of Section 8(4) of this administrative regulation if the provider cares for a child requiring therapeutic foster care.
(6) A respite care provider for a child with medical complexity shall:
(a) Meet the requirements of Section 10(4)(b), (5), and (6) of this administrative regulation;
(b) Receive training on how to meet the specific needs of the child with medical complexity from:
1. A health professional; or
2. The foster parent trained by a health professional; and
(c) Maintain certification in:
1. Infant, child, and adult CPR; and
2. First Aid.

Section 14. Private Placement Process. Except for a child in the custody of or otherwise made the legal responsibility of the cabinet or the Department of Juvenile Justice, a child-placing agency shall follow the procedures established by this section if a private placement is conducted. (1) For a child being placed with a child-placing agency, the child-placing agency shall obtain an:
(a) Agreement for voluntary care signed by the custodian; or
(b) Order from a court of competent jurisdiction placing the child into the custody of the child-placing agency.
(2) The child-placing agency shall:
(a) Complete an intake assessment of the strengths and needs of the child and the child's family of origin; and
(b) Ascertain the appropriateness of the referral for the child.
(3)(a) The child-placing agency shall develop an ITP individualized for a child and the child's family based on an individualized assessment of the child's and family's needs:
1. Within thirty (30) days of the child's placement with the child-placing agency; or
2. Prior to the child being placed out of state.
(b) An exception to the requirement specified in paragraph (a) of this subsection may be made for a child:
1. Under the age of twelve (12) months; and
2. With no extraordinary needs.
(c) The assessment shall be revised as needed.
(d) The assessment and ITP shall include the type and extent of services to be provided to the child and the child's family.
(e) Assessment of the child shall include consideration of the following history:
1. Behavioral health treatment;
2. Trauma;
3. Risk for harm to self or others; and
4. Past behaviors or safety issues that could increase the likelihood of placement disruption.
(4) Unless not in the best interest of the child, the child, parent, and foster parent shall be included in developing the assessment and ITP.
(5)(a) The foster home selected for placement shall be the most appropriate home based on the child's needs and the strengths of the foster family.
(b) The foster home shall be located as close as possible to the home of the family of origin, in order to facilitate visiting and reunification.
(6)(a) The social services worker and the foster parent shall work collaboratively to prepare the child prior to the placement.
(b) Unless a circumstance precludes preparation and the circumstance is documented in the case record, a child shall have a period of preparation prior to the placement in the foster home.
(7) The child-placing agency shall:
(a) Provide or arrange for services to support reunification for a child for whom family reunification is the goal;
(b) Assess and document the parent's capacity for reunification quarterly;
(c) Provide for review of the child in order to evaluate the progress toward achieving the child's permanency goal every six (6) months; and
(d) Assure that foster care continues to be the best placement for the child.
(8)(a) Services to the family of origin and to the child shall be adapted to their individual capacities, needs, and problems.
(b) A reasonable effort shall be made to return the child to the family of origin.
(9) Planning for the child regarding treatment program matters, including visitation, health, education, and permanency goals, shall

be developed in collaboration with the:
(a) Family of origin;
(b) Treatment director;
(c) Social services worker; and
(d) Foster home.
(10)(a) The child-placing agency shall work with a foster home to promote stability and avoid disruption for a child, to include:
1. Services specified in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and
2. Annual reevaluation of the foster home in accordance with Section 15 of this administrative regulation.
(b) A request for the removal of a child from a foster home shall be explored immediately and shall be documented by the social services worker.
(c) If disruption is unavoidable, the child-placing agency and foster home shall develop a plan for the smooth transition of the child to a new placement.
(11)(a) Preparation for the return of a child to the family of origin shall be supervised by a social services worker.
(b) The family shall participate in planning for the child's return.
(c) If regular contact with the child's family does not occur, a plan for the child's return shall include at least one (1):
1. Prior visit between the child and the family; and
2. Preliminary visit of the child to the child's family home.
(12) The child-placing agency shall recommend a plan for aftercare services for a child and the child's family.

Section 15. Annual Reevaluation of an Approved Adoptive Home Awaiting Placement or an Approved Foster Home. (1) Annually, a child-placing agency shall:
(a) Conduct a personal interview in the home with an approved:
1. Adoptive home awaiting placement; or
2. Foster home; and
(b) Assess:
1. Any change in the home;
2. The ability of the home to meet the needs of a child placed in the home; and
3. The home's continued compliance with the requirements of this administrative regulation in:
a. Section 4(3)(e), (g), and (i) through (s), and Section 4(5) through (11) of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;
b. Sections 6(9)(a) and 12 of this administrative regulation, with regard to case management and expectations, if the home is approved as a foster home;
c.(i) Sections 5(1)(c) or 7(3)(a) of this administrative regulation, with regard to annual training, if the home is approved as a foster home; or
(ii) 922 KAR 1:495 with regard to annual training if the home is approved to receive a child in the custody of the cabinet; and
d. Section 18(3) of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.
(2) After initial approval, a foster parent, an adoptive parent awaiting placement, a respite care provider, or a member of a foster or adoptive parent's household shall comply with a child-placing agency's request for a statement regarding the parent, provider, or household member's general health and medical ability to care for a child.
(3) If a prospective adoptive home is awaiting an international adoption, the child-placing agency shall conduct a reevaluation of the home once every eighteen (18) months.

Section 16. Independent Living Services. A child-placing agency shall:
(1) Provide independent living services:
(a) To a child:
1. In the custody of a state agency; and
2. Who is twelve (12) to twenty-one (21) years of age;
(b) Directly or indirectly through a foster parent with whom the child is placed;
(c) As prescribed in the child's ITP; and
(d) In accordance with 42 U.S.C. 677(a); and
(2) Teach independent living:
(a) To a child:
1. In the custody of a state agency; and
2. Sixteen (16) years of age and older; and
(b) Developed in accordance with 922 KAR 1:340, Section 3(1)(a).

Section 17. Maintenance of a Foster Care, Medically Complex Foster Care, or Therapeutic Foster Care Record. (1)(a) The child-placing agency shall maintain a record on each child and foster home, including medically complex foster homes and therapeutic foster care homes.
(b) The child's record and the foster home record shall show the reason for placement change and steps taken to ensure success.
(c) A case record shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality, pursuant to KRS 199.430(3), 199.640, and 45 C.F.R. Parts 160 and 164.
(2) The record of the child, including information of the child's family, shall include:
(a) Identifying information for child, parent, and foster home;
(b) Commitment order or custodian's consent for admission;
(c) Birth and immunization certificate;
(d) Educational record;
(e) Medical and dental record since placement;
(f) Social history and assessment;
(g) ITP and review;
(h) Supervision plan and updates to the plan;
(i) Permanency goals, including independent living services;
(j) Incident reports, including details of the child's behavior and supervision at the time of the incident;
(k) Monthly progress notes based on the ITP and supervision plan;
(l) Quarterly revisions to the child's ITP;
(m) Correspondence with the:
1. Court;
2. Family;
3. Department for Community Based Services; or
4. Department of Juvenile Justice;
(n) Discharge report; and
(o) Aftercare plan.
(3) The foster home's record shall include documentation relating to the:
(a) Orientation and preparation of the home, including all adult caregivers in the household;
(b) Required preparation hours and the topics covered;
(c) Placement of the child;
(d) Narrative summary of the initial and annual foster home's home study;
(e) Supervision of the foster home, including critical incidents;
(f)1. Annual training requirements that are met in accordance with Section 5(1)(c) of this administrative regulation by the foster parent and all adult caregivers in the household; or
2. If applicable, annual training requirements in accordance with Section 7(3) or 10 of this administrative regulation;
(g) Background checks in accordance with Sections 4(3)(k) and 15(1)(b)3.a of this administrative regulation;
(h) Copy of any placement exceptions granted; and
(i) If applicable, copy of the written statement of the foster home's closure completed pursuant to Section 22(5) of this administrative regulation.
(4) A child-placing agency shall:
(a) Maintain a child or foster home's record for at least three (3) years;
(b) After three (3) years of inactivity:
1. Archive the record and have it transferred to one (1) of the cabinet's designated record centers; or
2. Maintain the record in accordance with 725 KAR 1:061 within the child-placing agency;
(c) Transfer the record to the cabinet, if:
1. The agency ceases operations; and
2. No other operational governing entity exists; and

(d) Make available all records maintained by the agency to the cabinet or its designee upon request.

Section 18. Orientation and Preparation of an Adoptive Home for a Child Not in the Custody of the Cabinet. For a child not in the custody of the cabinet, a child-placing agency shall:

(1) Prepare and maintain the orientation and preparation curriculum on file;

(2) Provide orientation and preparation to a prospective adoptive home in accordance with the child-placing agency's policies and procedures to include the following:

(a) An example of an actual experience from a parent who has adopted a child;

(b) Challenging behavior characteristics of an adoptive older child;

(c) Referral resources for a developmental delay;

(d) Transition issues with focus on stages of grief, and a honeymoon period;

(e) Loss and the long-term effects on a child;

(f) Attachment and identity issues of the child;

(g) Cultural competency;

(h) Medical issues including referral resources;

(i) Family functioning, family values, and expectations of an adoptive home;

(j) Identification of changes that may occur in the family unit upon the placement of a child to include:

1. Family adjustment and disruption;

2. Identity issues; and

3. Discipline; and

(k) Financial assistance available to an adoptive home; and

(3) Ensure that an approved adoptive home awaiting the placement of a child receives adoptive home training annually in accordance with the child-placing agency's established policies and procedures.

Section 19. Adoption Placement Process For a Child Not in the Custody of the Cabinet. (1) A child shall not be placed for adoption until the:

(a) Adoptive home has been approved;

(b) Parental rights of the mother, legal or birth father, and putative father of the child, if not the same person as the legal father, are terminated by a circuit court order entered pursuant to KRS Chapter 625; and

(c) Child is placed with the child-placing agency for the purpose of adoption placement.

(2) A child's parent shall not be induced to terminate parental rights by a promise of financial aid or other consideration.

(3)(a) A child-placing agency licensed by the cabinet shall not use the authority authorizing the agency to place a child for adoption to facilitate an adoptive placement planned by a doctor, lawyer, clergyman, or person or entity outside the child-placing agency.

(b) The child-placing agency shall comply with provisions of 922 KAR 1:010.

(4) The child-placing agency shall obtain the following:

(a) A developmental history of the adoptive child to include:

1. Birth and health history;

2. Early development;

3. Characteristic ways the child responds to people and situations;

4. Any deviation from the range of normal development;

5. The experiences of the child prior to the decision to place the child for adoption;

6. Maternal attitude during pregnancy and early infancy;

7. Continuity of parental care and affection;

8. Out-of-home placement history;

9. Separation experiences; and

10. Information about the mother, legal father, and putative father, if not the same person as the legal father, and family background:

a. That may affect the child's normal development in order to determine the presence of a significant hereditary factor or pathology; and

b. Including an illness of the biological mother or father;

(b) A social history of the biological or legal parent, to include:

1. Name;

2. Age;

3. Nationality;

4. Education;

5. Religion or faith; and

6. Occupation;

(c) Information obtained from direct study and observation of the child by a:

1. Social services worker; and

2. Physician or other health professional;

(d) If indicated, information obtained from direct study and observation of the child by a:

1. Foster parent;

2. Nurse;

3. Psychologist; or

4. Other consultants; and

(e) Information from the mother, if possible, identifying the biological father, or legal father, if different from the biological father, for the purpose of:

1. Determining the father's parental rights; and

2. Establishment of possible hereditary endowments.

(5) If either biological or legal parent is unavailable, unwilling, or unable to assist with the completion of information necessary to comply with KRS 199.520 and 199.572, the child-placing agency shall document information, to the extent possible, from the existing case record.

(6) Prior to finalization of the adoptive placement, a licensed physician or other health professional shall make a medical examination to determine:

(a) The state of the child's health;

(b) Any significant factor that may interfere with normal development; and

(c) The implications of any medical problem.

(7) The condition under which an adoptive home agrees to accept the child shall be decided upon, prior to placement of the child. The written agreement between the child-placing agency and the adoptive home shall embody the following provisions:

(a) The adoptive home shall agree to:

1. Comply with KRS 199.470;

2. File an adoptive petition at a time agreeable to the adoptive home and the child-placing agency; and

3. Permit supervision by the child-placing agency in accordance with the child-placing agency's policies and procedures:

a. After placement; and

b. Preceding a final judgment of adoption by the circuit court;

(b) The child-placing agency shall be responsible for providing the adoptive home with written information regarding the child's:

1. Background;

2. Medical history;

3. Current behavior; and

4. Medical information necessary to comply with KRS 199.520(4)(a); and

(c) The adoptive home and the child-placing agency shall agree that the child may be removed from the placement, at the request of either party, before the filing of the adoptive petition.

(8)(a) Preplacement visits shall be arranged for the adoptive home and a child.

(b) The pattern and number of visits shall be based on the child's:

1. Age;

2. Development; and

3. Needs.

(9) During preparation, the child-placing agency shall discuss the child's readiness to accept the selected placement with the child, in accordance with the child's age and ability to understand.

(10)(a) Unless the child-placing agency and, if applicable, the state agency which has custody of a child belonging to a sibling group, determines that it is more beneficial for siblings to be placed in separate adoptive homes, siblings who have had a relationship with each other shall be placed together.

(b) If siblings have been separated in placements:

1. The case record shall reflect a valid basis for the separation;

2. The decision to separate siblings shall be made by the executive director of the child-placing agency; and

3. Continued contact between siblings shall be maintained, if possible.

(11) A child-placing agency shall comply with Section 6(1)(b) of this administrative regulation during the process of placing a child in a prospective adoptive home.

Section 20. Supervision of an Adoptive Placement of a Child Not in the Custody of the Cabinet. (1) For a child not in the custody of the cabinet, the child-placing agency placing a child shall remain responsible for the child until the adoption has been granted. This responsibility shall involve the following:

(a) Two (2) meetings by the social services worker with the child and the adoptive home, including both adoptive parents if not a single parent adoption, one (1) visit of which shall be in the adoptive home before filing of the adoption petition;

(b) The continuation of case management, visits, and telephone contacts based upon the needs of the child until the adoption is legally granted; and

(c) Awareness of a change in the adoptive home including health, education, or behavior.

(2) Upon request of the cabinet, the child-placing agency shall:

(a) Provide information pursuant to KRS 199.510, as necessary to report to the court to proceed with adoption;

(b) Prepare and provide the original confidential report to the court; and

(c) Forward to the cabinet a copy of:

1. The confidential report that was provided to the court; and

2. Information required by KRS 199.520 and 199.572.

(3) If the court finds the adoptive home to be unsuitable and refuses to grant a judgment, the child-placing agency shall remove the child from the home.

Section 21. Maintenance of Adoptive Case Record. (1) The child-placing agency shall maintain a case record from the time of the application for services through the completed legal adoption and termination of child-placing agency services for:

(a) A child accepted for care and the child's family; and

(b) An adoptive applicant.

(2) The case record shall contain material on which the child-placing agency decision may be based and shall include or preserve:

(a) Information and documents needed by the court;

(b) Information about the child and the child's family;

(c) A narrative or summary of the services provided with a copy of legal and other pertinent documents; and

(d) Information gathered during the intake process including the following:

1. A description of the situation that necessitated placement of the child away from the child's family or termination of parental rights;

2. A certified copy of the order of the circuit court terminating parental rights and committing the child to the child-placing agency for the purpose of adoption;

3. Verification of the child's birth record and the registration number;

4. A copy of the child's medical record up to the time of placement;

5. A copy of the required evaluation of the adoptive placement;

6. Date of adoptive placement;

7. A statement of the basis for the selection of this adoptive home for the child;

8. A record of after-placement services with dates of:

a. Visits;

b. Contacts;

c. Observations;

d. Filing of petition;

e. Granting of judgments; and

f. Other significant court proceedings relative to the adoption;

9. Child's adoptive name; and

10. Verification of preparation and orientation and annual training in accordance with Section 18 of this administrative regulation.

(3) If there is a need to share background information with a party to a completed adoption, or to have the benefits of information from a closed adoption record to offer services following completion of an adoption, the child-placing agency shall comply with KRS 199.570.

(4) Records on adoption that contain pertinent information shall be:

(a) Maintained indefinitely following final placement of a child; and

(b) Sealed and secured from unauthorized scrutiny.

(5) A child-placing agency shall submit adoptive case records to the cabinet, if:

(a) The child-placing agency closes; and

(b) No other operational governing entity exists.

Section 22. Closure of an Approved Foster or Adoptive Home. (1) A foster or adoptive home shall be closed if:

(a) Sexual abuse or exploitation by a resident of the household is substantiated;

(b) Child maltreatment by a resident of the household occurs that is serious in nature or warrants the removal of a child;

(c) A serious physical or mental illness develops that may impair or preclude adequate care of the child in the home; or

(d) The home fails to meet requirements of this administrative regulation in:

1. Section 4(3)(e), (g), and (i) through (s), and Section 4(5) through (11) of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;

2. Sections 6(9)(a) and 12 of this administrative regulation, with regard to placement and case management, if the home is approved as a foster home;

3. Sections 5, 7, or 10 of this administrative regulation, with regard to annual training, if the home is approved as a foster home. An exception to this subparagraph may be granted by the Division of Protection and Permanency director or designee for a foster parent caring for a child in the custody of the cabinet if it is in the best interest of a child placed in the foster home to allow the exception. If an exception is approved for a foster parent caring for a child in the custody of the cabinet, a new or additional child shall not be placed in the home until the foster parent has met the training requirement; and

4. Section 18(3) of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.

(2) A foster or adoptive home may be closed:

(a) In accordance with the terms specified in the written agreement between the child-placing agency and the foster or adoptive home; or

(b) In accordance with the terms specified in the written contract between the cabinet and the child-placing agency.

(3) If closure of an approved foster or adoptive home is necessary, a child-placing agency shall:

(a) State the reason for the closure in a personal interview with the family unless the family refuses or declines the personal interview; and

(b) Document the reason in the foster or adoptive home's case record.

(4) A child-placing agency shall confirm the decision to close a home in a written notice to the foster or adoptive parent. The notice shall be provided within fourteen (14) calendar days of the interview with a foster or adoptive parent. If the foster or adoptive parent refuses to be interviewed, the notice shall be provided within fourteen (14) calendar days of the foster or adoptive parent's refusal.

(5) The written notice shall include:

(a) Date of approval and termination; and

(b) Indication of whether the closure was at the request of the foster parents or the agency.

Section 23. Foster Care Registry. (1) A child-placing agency shall register a foster home with the cabinet, approved by the child-

placing agency, to include medically complex foster homes and therapeutic foster care homes.

(2) Information shall be provided to the cabinet in a format prescribed by the cabinet, to include:

(a) The foster parent's:

1. Full name;

2. Social Security number; and

3. Address, including county of residence;

(b) The child-placing agency's:

1. Name; and

2. Mailing address;

(c)1. The date the foster home was:

a. Approved;

b. Denied;

c. Withdrawn; or

d. Closed; and

2.The reason for the change in the foster home status; and

(d) Whether the foster home is currently active or inactive.

(3) Paragraph (c) of subsection (2) shall have a delayed implementation due to the integration of technology, but shall be effective no later than October 30, 2019.

Section 24. Emergency Preparedness. Each foster home shall submit an emergency preparedness plan to the private agency that would allow the agency to identify, locate, and ensure continuity of services to children who are in the custody or control of the cabinet or agency.

Section 25[~~24~~]. Incorporation by Reference. (1) The "DPP-112B, Private Child-Placing Agency Placement Exception Request", 4/19[~~10/15~~], is incorporated by reference.

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

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 1, 2019 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, phone (502) 564-3703, email Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards for child-placing agencies who provide contracted foster care placements for children in the custody of the cabinet.

(b) The necessity of this administrative regulation: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services (CHFS) to promulgate, administer, and enforce programs mandated by federal law or to qualify for the receipt of federal funds. KRS 199.640(5)(a) requires CHFS to promulgate administrative regulations establishing basic standards of care and service for child-caring and child-placing agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is necessary to implement programs mandated by federal law and to qualify for the receipt of federal funds, establishes basic standards of care and service for child-placing agencies, and implements the provision of KRS Chapter 605.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation conforms to KRS 194A.050(1), 199.640(5)(a), and 605.150(1) by establishing standards for child-placing agencies.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation incorporates federal model standards into the certification and approval process of foster care and adoptive homes contracted through child-placing agencies. Unless an exception is permitted, the maximum number of children residing in a foster home is being amended to six rather than five, in accordance with section 472(c)(1)(A)(ii)(III) of the Family First Prevention Services Act. The amendment also includes updates needed for consistency between public and private foster and adoptive homes and for compliance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure child-placing agencies incorporate federally issued model standards for foster and adoptive homes into their processes and procedures.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the cabinet to promulgate, administer, and enforce programs mandated by federal law or to qualify for the receipt of federal funds. KRS 199.640(5)(a) requires the cabinet to promulgate administrative regulations establishing basic standards of care and service for child-caring and child-placing agencies. This amendment incorporates federal standards into the procedures of child-placing agencies.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will ensure that child placing agencies make the necessary changes to the approval and certification process of foster and adoptive homes to meet federal standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently over 9,000 children in foster care and approximately 5,000 foster/adoptive homes. In 2018, the cabinet substantiated or found that services were needed for 32,411 unique children (TWS-M272F, 1/2/19). Private child-placing agencies are a partner to the cabinet to ensure that children who are in out of home care have a safe and secure environment when they are no longer able to remain in their home.

(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: Private child-placing agencies will need to require potential foster and adoptive parents to submit to the requirements being added into this administrative regulation to become certified. Additional requirements include demonstrating functional literacy, refraining from smoking in the presence of a child for whom a physician recommends a smoke-free environment, and the development of an emergency prepared plan.

(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 child-placing agencies as a result of the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Certified foster and adoptive homes will be in compliance with federal standards.

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

(a) Initially: There is no cost to the administrative body.

(b) On a continuing basis: There is no cost to the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this administrative regulation are supported through funds under Title IV-E of the Social Security Act and General Funds.

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

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 677(a), 14901-14954

2. State compliance standards. KRS 194A.050(1), 199.640(5)(a), 605.150(1)

3. Minimum or uniform standards contained in the federal mandate. 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 677(a), 14901-14954

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.640(5)(a), 605.150(1), 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671, 42 U.S.C. 677(a), 14901-14954

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no new revenues for the first year.

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

(c) How much will it cost to administer this program for the first year? The administrative body projects costs associated with implementation of this administrative regulation will be within existing appropriations for the first year. General Fund and Title IV-E funds are used in the implementation of this program.

(d) How much will it cost to administer this program for subsequent years? The administrative body projects costs associated with the implementation of this administrative regulation will be within existing appropriations for subsequent years. General Fund and Title IV-E funds are used in the implementation of this program.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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

922 KAR 1:350. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers.

RELATES TO: KRS 2.015, 61.870-61.884, 194A.005(1), 194A.050(1), 194A.060, 199.011, 199.472(1), 202A.011(12), 258.015, 258.035, 311.720(12) [~~311.720(9)~~], 311.840(3), 314.011(5), (7), (9), 527.100, 527.110, 600.020, 605.090, 605.100(1), 610.110, 620.030, 620.050, 620.140(1)(d), 620.360, Chapter 625, 8 U.S.C. 1151, 1181, 16 C.F.R. 1219-1220, 1632-1633, 42 C.F.R. 435.407, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 672, 677

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472(1), 605.100(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary for the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 605.100(1) requires the cabinet to arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics. KRS 199.472(1) requires[~~authorizes~~] the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for foster or adoptive parenthood. This administrative regulation establishes criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children.

Section 1. Definitions. (1) "Adoptive home" means a home in which a parent is approved by the cabinet to provide services as specified in Section 2(12) of this administrative regulation.

(2) "Applicant" means an individual or family subject to approval by the cabinet as a foster or adoptive home.

(3) "Cabinet" is defined by KRS 194A.005(1) and 600.020(7)[~~600.020(6)~~].

(4) "Care Plus" means a foster care program for a child who is determined to have specialized care needs as specified in Section 5 of this administrative regulation.

(5) "Child" means:

(a) A child as defined by KRS 199.011(4) and 600.020(9)[~~600.020(8)~~];

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(6) "Child specific foster home" means an individual or family subject to approval by the cabinet as a foster family home for a relative or fictive kin placement.

(7) "Child with medical complexity" means a child who has a medical condition in accordance with Section 4(1)(b) of this administrative regulation.

(8)[~~(7)~~] "Commissioner" means commissioner of the Department for Community Based Services.

(9) "Department" means the Department for Community Based Services.

(10)[~~(8)~~] "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(10)[~~199.011(9)~~] and 600.020(30)[~~600.020(28)~~], if referring to a physical structure; or

(b) If referring to an individual, any individual approved as a foster parent by the cabinet to provide services as specified in Section 2(12) of this administrative regulation.

(11)[~~(9)~~] "Health professional" means a person actively licensed as a:

(a) Physician as defined by KRS 311.720(12)[~~311.720(9)~~];

(b) Physician assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

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

(12)[~~(10)~~] "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker.

(13)[~~(11)~~] "Independent living services" means services provided to an eligible child to assist the child in the transition from the dependency of childhood to living independently.

(14)[~~(12)~~] "Placement" means the physical change in the location and living arrangement of a child in the custody of the cabinet removed from the child's home of origin.

(15)[~~(13)~~] "Respite care" means temporary care provided by a provider, as specified in Section 17 of this administrative regulation, to provide relief to the foster or adoptive parents with the expectation of a child's return to the current foster or adoptive home.

Section 2. General Requirements for a Foster or Adoptive Parent. (1)(a) Unless an exception is approved pursuant to paragraph (b) of this subsection by designated cabinet staff, a foster or adoptive parent applicant shall be at least twenty-one (21) years of age.

(b) A foster or adoptive parent applicant between eighteen (18) and[~~to~~] twenty-one (21) years of age may be approved as a foster or adoptive parent if:

1. The foster or adoptive parent applicant is related to the child under the custodial control of the cabinet;

2. The foster or adoptive parent applicant can meet the needs of the child; and

3. Cabinet staff determines the placement is in the best interest of the child.

(2) A foster or adoptive parent applicant shall provide proof of the applicant's United States citizenship or legal immigrant status, as described in 8 U.S.C. 1151, 8 U.S.C. 1181, and 42 C.F.R. 435.407.

(3) A department employee who provides protection and permanency services may apply to adopt a child in the care and custody of the cabinet if the commissioner approves the employee to adopt and the adoption is in the best interest of the child.

(4)(a) A department employee who provides protection and permanency services shall be approved as[~~prohibited from becoming~~] a respite care provider or foster parent for a child in the care and custody of the cabinet if prior approval[~~, regardless of the child's residence, unless it is approved~~] by the commissioner or designee is granted in writing through the service region administrator or designee in the region of employment[~~because the employee was a foster parent or respite care provider for the child when employment with the department protection and permanency services began~~].

(b) If approval is granted, the department shall:

1. Ensure the employee completes pre-service training outside the region of employment;

2. Assign a social services worker outside of the applicant employee's region of employment to complete the home study;

3. Maintain the case outside of the applicant employee's region of employment; and

4. Ensure that the employee shall not accept the placement of a child from within the region of employment unless:

a. The employee is related to the child; or

b. The employee is determined to be fictive kin as the result of a relationship developed outside of employment prior to the child being placed in the custody of the cabinet.

(5) A married couple may apply to become foster or adoptive parents.

(6) A single, unmarried person may apply to become a foster or adoptive parent.

(7) The decision to foster or adopt a child shall be agreed to by each adult member of the applicant's household.

(8)(a) Each foster or adoptive applicant and adult member of the applicant's family shall submit a DPP-107, Health Information Required for Foster or Adoptive Parents, Applicants, or Adult Household Members, completed:

1.[~~(a)~~] By a health professional who is not a member of the applicant's household, based upon health information within the past year, documenting:

a.[~~1.~~] The applicant's general health, including that the applicant is free of communicable or infectious disease or a health condition that presents a health or safety risk to a child placed in the applicant's home; and

b.[~~2.~~] That there are no known health factors that would interfere with the applicant's ability to become a foster or adoptive parent;

2.[~~and (b)~~] As part of:

a.[~~1.~~] The initial application;

b.[~~2.~~] The annual re-evaluation; or

c.[~~3.~~] A foster or adoptive home review pursuant to Section 13 of this administrative regulation; and

3. By all household members in which the household member discloses mental health and substance abuse issues, including any history of drug or alcohol abuse or treatment.

(b) The department shall require further documentation or evaluation to determine the suitability of the home if there is an indicator of current or past mental health or substance abuse issues.

(9) Each foster or adoptive parent applicant shall submit a DPP-108, Health Information Required for Foster or Adoptive Parents or Applicants Regarding Dependent Children, for each child member of the applicant family.

(10) A foster or adoptive parent applicant shall have a source of income:

(a) Sufficient to meet the applicant's household expenses; and

(b) Separate from:

1. Foster care reimbursement; or

2. Adoption assistance.

(11) Unless specified in a contract between the cabinet and a child welfare agency that provides foster care services, a foster or adoptive parent shall accept a child for foster care only from the cabinet.

(12) An approved foster or adoptive parent shall be willing to:

(a) Provide foster care services for a child placed in out-of-home care by the cabinet;

(b) Adopt a child:

1. Whose parent's parental rights have been terminated; and

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

(c) Provide respite care for a child under the custodial control of the cabinet; or

(d) Provide any combination of the services described in paragraphs (a) through (c) of this subsection.

(13) A foster or adoptive applicant shall provide to the cabinet:

(a)1. The names of three (3) personal references including[who]:

a. One (1) relative reference; and

b. Two (2) non-relative references.[1. Are not related to the applicant; and]

2. The references required by subparagraph 1. of this paragraph[a.] shall:

a. Be interviewed by cabinet staff in person or by telephone; or

b.[Shall] Provide letters of reference for the applicant; and

(b) Two (2) credit references or a credit report.

(14) Unless a documented exception exists and is approved by designated cabinet staff due to inaccessibility, each adult child of the foster or adoptive parent applicant who does not live in the home shall be interviewed by cabinet staff in person or by telephone regarding the applicant's parenting history.

(15) If applicable, verification shall be obtained from the foster or adoptive parent applicant regarding:

(a) Previous divorce;

(b) Death of a spouse; and

(c) Present marriage.

(16) A foster or adoptive parent applicant who does not have custody of his or her own child shall provide:

(a) A copy of the visitation order, if applicable;

(b) A copy of the child support order, if applicable; and

(c) Proof of current payment of child support, if applicable.

(17) A foster or adoptive parent applicant and any member of the applicant's household shall submit to the background checks required by[in accordance with] 922 KAR 1:490.

(18) The cabinet shall perform background checks in accordance with criteria established in 922 KAR 1:490.

Section 3. Home Environment. (1) The foster or adoptive parent shall request written approval from designated cabinet staff to provide services as a:

(a) Certified provider of supports for community living in accordance with 907 KAR 12:010[1:145];

(b) Certified family child care home in accordance with 922 KAR 2:100; or

(c) Provider of child-care center services in accordance with 922 KAR 2:090.

(2) If the foster or adoptive home adjoins a place of business open to the public, potential negative impact on the family and the child shall be examined including the:

(a) Hours of operation;

(b) Type of business; and

(c) Clientele.

(3) The foster or adoptive parent shall have access to:

(a) Reliable transportation;

(b) School;

(c) Recreation;

(d) Medical care; and

(e) Community facilities.

(4) A foster or adoptive parent who drives shall:

(a) Possess a valid driver's license;

(b) Possess proof of liability insurance; and

(c) Abide by passenger restraint laws.

(5)(a) [No] More than four (4) children, including the foster or adoptive parent's own children, shall not share a bedroom, with thorough consideration given to each child's age, gender, and background.

(b) Children of different genders over the age of five (5) shall not share a bedroom except as approved by designated department staff if:

1. Siblings are placed together; and

2. There are no high-risk behaviors.

(6) Each child shall have:

(a) A separate bed that is age and size appropriate for the child; or

(b) If the child is under age one (1), a crib that meets Consumer Products Safety Commission standards pursuant to 16 C.F.R. 1219-1220.

(7) A child's mattress shall:

(a) Meet current Consumer Products Safety Commission Standards in 16 C.F.R. Parts 1632 and 1633;

(b) Be in good repair; and

(c) Have a clean fitted sheet that shall be changed:

1. Weekly; or

2. Immediately if it is soiled or wet.

(8) Except as approved by designated cabinet staff, a foster or adoptive parent shall not share a bedroom with a child under the custodial control of the cabinet unless necessary due to the needs of the child.

(9) A bedroom used by a child under the custodial control of the cabinet shall be comparable to other bedrooms in the house.

(10) The physical condition of the foster or adoptive home shall:

(a) Not present a hazard to the safety and health of a child;

(b) Be well heated and ventilated;

(c) Comply with state and local health requirements regarding water and sanitation;[and]

(d) Provide access to indoor and outdoor recreation space appropriate to the developmental needs of a child placed in the foster or adoptive home;

(e) Provide functioning kitchen facilities; and

(f) Provide a functioning bathroom, including a:

1. Toilet;

2. Sink; and

3. Bathtub or shower.

(11) The following shall be inaccessible to a child:

(a) Medication, unless an exception is granted pursuant to subsection (12) of this section;

(b) Alcoholic beverage;

(c) Poisonous or cleaning material;

(d) Ammunition; and

(e) Firearms in accordance with KRS 527.100 and 527.110.

(12) An exception may be provided by designated cabinet staff to subsection (11)(a) of this section if:

(a)1. The child is approved by a health care professional to self-administer medicine under the supervision of the foster or adoptive parent; or

2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and

(b) Measures are taken to prevent unauthorized access by another child in the same home.

(13) Any household animal shall be vaccinated in accordance with KRS 258.015 and 258.035.

(14) A dangerous animal shall not be allowed near the child.

(15) First aid supplies[with unexpired dates] shall be available and stored in a place easily accessible to an adult.

(16) A working telephone shall be accessible[available in the home].

(17) The home shall be equipped with a working smoke alarm within ten (10) feet of each bedroom and on each floor of the home.

(18) A home with gas heating or appliances shall be equipped with a working carbon monoxide detector.

Section 4. Medically Complex Foster or Adoptive Home. (1) An applicant shall be approved by cabinet staff as a medically complex home if the foster or adoptive parent:

(a) Meets the requirements in Sections 2 and 3 of this administrative regulation, except for Section 2(10), which may be considered as an exclusion on a case-by-case basis by designated cabinet staff based on the best interests or needs of the child;

(b) Cares for a child in the custody of the cabinet who is determined to be medically complex by designated cabinet staff due to:

1. Significant medically oriented care needs related to a serious illness or condition diagnosed by a health professional that may become unstable or change abruptly, resulting in a life-threatening event;

2. A chronic condition that is expected to be life-long and progressive and to require extensive services;

3. An acute, time-limited condition requiring additional oversight; or

4. A severe disability that requires the routine use of medical devices or assistive technology to compensate for the loss of a vital body function needed to participate in activities of daily living and significant and sustained care to avert death or further disability;

(c) Is a primary caretaker who is not employed outside the home, except as approved by designated cabinet staff and based on the needs of the child;

(d) Completes training in accordance with 922 KAR 1:495, Section 4;

(e) Receives training with documentation of completion from a health professional in how to care for the specific child with medical complexity who shall[~~will~~] be placed in the foster or adoptive parent's care;

(f) Maintains current certification in:

1. Infant, child, and adult CPR; and

2. First aid; and

(g) Has a home within:

1. One (1) hour of a medical hospital with an emergency room; and

2. Thirty (30) minutes of a local medical facility.

(2) Except for a sibling group or unless approved by designated cabinet staff in accordance with Section 16 of this administrative regulation, more than four (4) children, including the foster or adoptive parent's own children, shall not reside in a medically complex foster or adoptive home.

(3) Unless an exception is approved pursuant to Section 16(2) of this administrative regulation and a medically complex foster or adoptive home has daily support staff to meet the needs of a child with medical complexity:

(a) A one (1) parent medically complex foster or adoptive home shall:

1. Not care for more than one (1) child with medical complexity; and

2. Demonstrate access to available support services; and

(b) A two (2) parent medically complex foster or adoptive home shall:

1. Not care for more than two (2) children with medical complexity; and

2. Demonstrate access to available support services.

(4) Unless an exception pursuant to Section 16(2) of this administrative regulation is approved, a child with medical complexity shall be placed in an approved medically complex foster or adoptive home.

(5) Unless the home is closed[~~,~~] pursuant to Section 14 of this administrative regulation, an approved medically complex foster or adoptive parent shall receive annual reapproval by the cabinet as a medically complex home if the parent:

(a) Annually completes training specified in 922 KAR 1:495, Section 4; and

(b) Continues to meet the requirements of this section.

(6) An approved medically complex foster or adoptive parent shall cooperate in carrying out the child's health plan.

Section 5. Care Plus Home. (1) An applicant shall be approved by cabinet staff as a care plus parent if the foster or adoptive parent:

(a) Meets the requirements of Sections 2 and 3 of this administrative regulation, except for Section 2(10) which may be considered as an exclusion on a case-by-case basis by designated cabinet staff based on the best interests or needs of the child;

(b) Agrees to care for a child in the custody of the cabinet approved by cabinet staff as a care plus child because the child:

1. Has a diagnosed emotional or behavioral problem;

2. Is due to be released from a treatment facility;

3. Displays aggressive, destructive, or disruptive behavior;

4. Is at risk of being placed in a more restrictive setting;

5. Is at risk of institutionalization; or

6. Has experienced numerous placement failures;

(c) Is a primary caretaker who is not employed outside the home, unless the cabinet determines that the child's needs continue to be met;

(d) Completes training in accordance with 922 KAR 1:495, Section 6;

(e) Agrees to maintain a weekly[~~daily~~] record of the care plus child's activities and behaviors; and

(f) Agrees to attend case planning conferences.

(2) Unless an exception is approved pursuant to Section 16(2) of this administrative regulation and the care plus home parent can demonstrate access to available support services:

(a) No more than four (4) children, including the foster or adoptive parent's own children, shall reside in a care plus home;

(b) A one (1) parent care plus home shall not care for more than one (1) care plus child as described in subsection (1)(b) of this section; and

(c) A two (2) parent care plus home shall not care for more than two (2) care plus children as described in subsection (1)(b) of this section[~~, including the care plus foster or adoptive parent's own children~~].

(3) Unless the home is closed pursuant to Section 14 of this administrative regulation, an approved care plus foster or adoptive parent shall receive annual reapproval by the cabinet as a care plus home, if the parent:

(a) Annually completes training in accordance with 922 KAR 1:495, Section 6;

(b) Submits to a review of the parent's:

1. Strengths and needs;

2. Records maintained on services provided to the child; and

3. Ability to meet the goals established for the child; and

(c) Continues to meet the requirements of this section.

Section 6. Preparation and Selection of a Foster or Adoptive Home. (1) The cabinet shall recruit a foster or adoptive home and approve the home prior to the placement of a child, except in the case of a child specific placement with a relative or fictive kin caregiver.

(2) Prior to approval as a foster or adoptive parent, an applicant shall complete training requirements in accordance with 922 KAR 1:495.

(3) If a new adult moves into an approved foster or adoptive home where a child is already placed by the cabinet, the child may remain and additional children may be placed if the new adult:

(a) Completes training in accordance with subsection (2) of this section within six (6) months of entering the home; and

(b) Meets the requirements specified in Sections 2 and 3 of this administrative regulation.

(4) An adult child or incapacitated person who resides in the foster or adoptive home shall not be required to complete training in accordance with 922 KAR 1:495 if that individual shall[~~will~~] not be responsible for routine daily care of a child placed in the home by the cabinet.

(5) The cabinet shall not be obligated to grant foster or adoptive home approval or placement of a specific child to an individual or family that completes pre-service training.

(6) In addition to completion of training in accordance with 922 KAR 1:495, at least two (2) family consultations shall be conducted by cabinet staff in the home of an applicant, to include:

(a) Documentation that the requirements in Sections 2 and 3 of this administrative regulation have been met;

(b) Documentation that a personal interview with each member of the applicant's household has been completed;

(c) Discussion of the attitude of each member of the applicant's household toward placement of a child;

(d) Observation of the functioning of the applicant's household, including interpersonal relationships and patterns of interaction; and

(e) Assurance that the applicant is willing to accept a child's relationship with the child's family of origin.

(7) An applicant approved as a foster or adoptive parent or respite care provider by another state or by a child-placing agency as defined in[~~described by~~] KRS 199.011(6)[~~199.011(7)~~] shall:

(a) Meet the requirements provided within Sections 2 and 3 of this administrative regulation;

(b) Be assessed by cabinet staff to ascertain the applicant's level of skill as a potential Kentucky foster or adoptive parent;

(c) Provide verification of the closure and a statement to

indicate whether the closure was at the request of the foster or adoptive parent, the other state, or the agency; and

(d) Not be required to complete training in accordance with 922 KAR 1:495 for approval as a Kentucky foster or adoptive parent if cabinet staff:

1. Determine that the applicant possesses the necessary skills for fostering; and

2. Obtain records and recommendation from the other state or child-placing agency.

(8) Following initial training as specified in 922 KAR 1:495, if cabinet staff determines that an applicant or adult household member lacks the necessary skills to become a foster or adoptive parent, an individualized training curriculum shall be developed to fulfill unmet training needs.

(9)(a) A foster or adoptive parent shall request the recommendation of cabinet staff prior to enrolling in training specified in 922 KAR 1:495, Section 4(1) or 6(1); and

(b) Cabinet staff may recommend the foster or adoptive parent to receive training specified in 922 KAR 1:495, Section 4(1) or 6(1), if the parent possesses the aptitude to care for a child described in Section 4(1)(b) or 5(1)(b) of this administrative regulation.

Section 7. Completion of the Foster or Adoptive Approval Process. (1) Designated cabinet staff in a supervisory role shall approve a foster or adoptive applicant if:

(a) The applicant provides written and signed information pertaining to family history and background;

(b) The applicant completes training requirements as required by 922 KAR 1:495;

(c) The information required in Section 2(8) through (10) and (13) through (17) of this administrative regulation has been obtained, unless a waiver has been granted for a child specific placement with a relative or fictive kin caregiver;

(d) Designated cabinet staff recommends approval; and

(e) The applicant's ability to provide a foster, adoptive, or respite care service is consistent with the:

1. Cabinet's minimum foster or adoptive home requirements established in this administrative regulation; and

2. Needs of the families and children served by the cabinet.

(2) If the designated cabinet staff determines that an applicant does not meet the minimum requirements for approval as a foster or adoptive parent, the cabinet shall recommend that the applicant withdraw the request.

Section 8. Denial of a Foster or Adoptive Home Request. (1) Designated cabinet staff shall notify an applicant, in writing, if the request to become a foster or adoptive parent is not recommended for one (1) of the following reasons:

(a) The applicant is unwilling to withdraw the request to become a foster or adoptive parent after receiving a recommendation to withdraw; or

(b) The applicant desires to adopt, but is unwilling to adopt a child under the custodial control of the cabinet.

(2) If the foster or adoptive applicant disagrees with the cabinet's recommendation to not accept the applicant as a foster or adoptive home, designated cabinet staff shall review the request to become a foster or adoptive parent and issue a final written determination regarding the cabinet's recommendation.

Section 9. Expectations of a Foster or Adoptive Home. A foster or adoptive home providing services for a child in the custody of the cabinet shall:

(1) Provide a child placed by the cabinet with a family life, including:

(a) Nutritious food;

(b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(c) Affection;

(d) Life skills development, including demonstrating functional literacy;

(e) Recreational opportunities;

(f) Educational opportunities;

(g) Nonmedical transportation;

(h) Independent living services for a child age twelve (12) and older; [~~and~~]

(i) Opportunities for development consistent with their religious, ethnic, and cultural heritage;

(j) Adequate supervision; and

(k) Refraining from smoking in the direct presence of a child for whom their physician recommends, in writing, a smoke-free environment.

(2) Permit cabinet staff to visit;

(3) Share with cabinet staff pertinent information about a child placed by the cabinet;

(4) Comply with the general supervision and direction of the cabinet concerning the care of a child placed by the cabinet;

(5) Report immediately to the cabinet if there is a:

(a) Change of address;

(b) Hospitalization or life-threatening accident or illness of a child placed by the cabinet;

(c) Change in the number of people living in the home;

(d) Significant change in circumstances in the foster or adoptive home, such as income loss, marital separation, or other household stressor;

(e) Child placed in the home that is absent without official leave;

(f) Suicide attempt of a child placed by the cabinet; or

(g) Criminal activity by the child placed by the cabinet;

(6) Notify the cabinet if:

(a) Leaving the state with a child placed by the cabinet for more than twenty-four (24) hours; or

(b) A child placed by the cabinet is to be absent from the foster or adoptive home for more than twenty-four (24) hours;

(7) Cooperate with the cabinet if a contact is arranged by cabinet staff between a child placed by the cabinet and the child's birth family including:

(a) Visits;

(b) Telephone calls; or

(c) Mail;

(8) Surrender a child to the authorized representative of the cabinet upon request;

(9) Keep confidential all personal or protected health information as shared by the cabinet, in accordance with KRS 194A.060, 620.050, and 45 C.F.R. Parts 160 and 164 concerning a child placed by the cabinet or the child's birth family;

(10) Support an assessment of the service needs of a child placed by the cabinet;

(11) Participate in case-planning conferences concerning a child placed by the cabinet;

(12) Cooperate with the implementation of the permanency goal established for a child placed by the cabinet;

(13) Notify the cabinet at least fourteen (14) calendar days in advance of the home's intent to become certified to provide foster care or adoption services through a private child-placing agency in accordance with 922 KAR 1:310;

(14) Treat a child placed by the cabinet with dignity;

(15) Arrange for respite care services in accordance with Section 10(5) of this administrative regulation;

(16) Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;

(17) Facilitate the delivery of medical care to a child placed by the cabinet as needed, including:

(a) Administration of medication to the child and daily documentation of the medication's administration; and

(b) Physicals and examinations for the child;

(18) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030;

(19) Comply with KRS 620.360(2); and

(20) Have appeal rights in accordance with 922 KAR 1:320.

Section 10. Reimbursements for Foster Homes. (1) Types of per diem reimbursement. The cabinet shall approve a foster home as specified in Sections 2 and 3 of this administrative regulation and authorize a per diem reimbursement as established in this subsection.

(a) A child specific per diem reimbursement shall be made to a

foster home that:

1. Has been approved pursuant to Section 7 of this administrative regulation; and

2. Meets initial training requirements for a child specific foster home.

(b) A basic per diem reimbursement shall be:

1. Based on the age of a child placed by the cabinet in the foster home; and

2. Made to the foster home that meets[~~:~~

~~a. Meets criteria specified in paragraphs (b) through (j) of this subsection; and~~

~~b. Meets~~] annual training requirements in accordance with 922 KAR 1:495, Section 3. (c)[~~(b)~~] An advanced per diem reimbursement shall be:

1. Made to a foster home that has:

a. Been approved for two (2) years as a foster or adoptive parent; and

b. Met training requirements in accordance with 922 KAR 1:495, Section 3; and

2. Based on the age of the child placed by the cabinet.

(d)[~~(c)~~] A basic medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation; and

2. Provides for the care of a child with medical complexity.

(e)[~~(d)~~] An advanced medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation;

2. Has been approved for two (2) years as a foster or adoptive parent;

3. Has met training requirements in accordance with KRS 922 KAR 1:495, Section 3; and

4. Provides for the care of a child with medical complexity.

(f)[~~(e)~~] A degreed medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation;

2. Maintains a current license as a health professional; and

3. Provides for the care of a child with medical complexity.

(g)[~~(f)~~] A basic care plus foster home per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 5 of this administrative regulation; and

2. Provides for the care of a child described in Section 5(1)(b) of this administrative regulation.

(h)[~~(g)~~] An advanced care plus foster home per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 5 of this administrative regulation;

2. Has been approved for two (2) years as a foster or adoptive parent;

3. Has met training requirements in accordance with 922 KAR 1:495, Section 3(1); and

4. Provides for the care of a child described in Section 5(1)(b) of this administrative regulation.

(i)[~~(h)~~] A specialized medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 4 of this administrative regulation; and

2. Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition.

(j)[~~(i)~~] A degreed specialized medically complex per diem reimbursement shall be made to a foster parent who:

1. Maintains a current license as a health professional;

2. Meets criteria specified in Section 4 of this administrative regulation; and

3. Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition.

(k)[~~(j)~~] Upon placement of a child by the cabinet, a per diem reimbursement shall:

1. Be specified in a contract between an approved foster home and the cabinet; and

2. Provide for the care of a child placed by the cabinet, to include:

a. Housing expenses;

b. Food-related expenses;

c. Nonmedical transportation;

d. Clothing;

e. Allowance;

f. Incidentals;

g. Babysitting, excluding childcare authorized in subsection (4)(b) of this section;

h. Sports, recreation, and school activities;

i. One (1) day of respite care per child per month; and

j. School expenses.

(2) Medical coverage.

(a) Cabinet staff may authorize payment for medical expenses for a child in the custody of the cabinet after verification is provided that the child is not covered by health insurance, Medicaid, or the Kentucky Children's Health Insurance Program (K-CHIP).

(b) Designated cabinet staff shall approve or deny authorization of payment for a medical treatment greater than $500.

(3) Child care services.

(a) The cabinet shall review requests for child care services every six (6) months for a working foster parent.

(b) Designated cabinet staff may approve requests for child care services for a nonworking foster parent if:

1. A medical crisis affects the foster parent; or

2. The child care is appropriate to support the foster home or child.

(c) Designated cabinet staff shall review approved requests for child care services for a nonworking foster parent every three (3) months.

(d) Reimbursements shall not be made simultaneously to the same provider for foster care and child care services.

(e) A foster parent shall not simultaneously be used as a licensed or certified health care or social service provider for a child placed in the foster parent's care by the cabinet.

(4) Training. To the extent funds are available, the cabinet shall provide a reimbursement to an approved foster or adoptive home for ongoing training expenses commensurate with the foster or adoptive parent's training needs, including:

(a) Mileage;

(b) Babysitting; and

(c) Tuition or fees up to the amount of:

1. $100 per parent per year; or

2. $200 per parent per year for a:

a. Medically complex foster or adoptive home; or

b. Care plus foster or adoptive home.

(5) Respite care.

(a) Respite care shall be available for a child placed by the cabinet in a foster home.

(b) A foster home shall be eligible for one (1) day of respite care per month per child.

(c) A foster home that cares for a child in the custody of the cabinet and meets criteria established in Sections 4 and 5 of this administrative regulation shall be eligible for three (3) days of respite care per month per child.

(d) Designated cabinet staff may extend a foster parent's respite care use to fourteen (14) days if designated cabinet staff document that the:

1. Foster parent requires the additional respite care:

a. To stabilize the child's placement in the foster home; or

b. Due to unforeseen circumstances that may occur, such as:

(i) Death in the family;

(ii) Surgery; or

(iii) Illness; or

2. Child placed in the foster home requires additional respite

care to allow for a period of adjustment.

(e) The cost of respite care shall not exceed the per diem for the child.

(f) A respite care provider shall be approved in accordance with Section 17 of this administrative regulation.

(6) Appeals. A foster or adoptive parent may appeal the timeliness of reimbursement in accordance with 922 KAR 1:320.

Section 11. Home Study Requests. (1) Upon receipt of a request from another state's Interstate Compact on the Placement of Children Administrator in the interest of a child in the legal custody of that state's public agency, the cabinet shall complete the foster or adoptive home approval process as specified in Section 7 of this administrative regulation.

(2) The cabinet shall share a previously approved home study in accordance with the Kentucky Open Records Act, KRS 61.870-61.884, and 42 U.S.C. 671(a)(23).

(3) An individual may request an administrative hearing in accordance with 922 KAR 1:320 for failure of the cabinet to act in accordance with subsections (1) and (2) of this section.

Section 12. Foster or Adoptive Home Annual Reevaluation. (1) Prior to or during the month of the anniversary date of the initial approval as a foster or adoptive parent, the foster or adoptive parent shall be required to complete annual training requirements as specified in 922 KAR 1:495.

(2)(a) Failure to meet training requirements specified in subsection (1) of this section shall lead to closure unless an exception is granted by the designated cabinet staff for a foster parent caring for a child in the custody of the cabinet and it is determined that it is in the best interest of a child placed in the foster home.

(b) If an exception is approved as specified in paragraph (a) of this subsection, a new or additional child shall not be placed in the home until the foster parent has met the training requirement.

(3) A cabinet staff member shall conduct a personal, in-home interview with a foster or adoptive parent prior to or during the month of the anniversary date of the initial approval as a foster or adoptive home. The interviewer shall assess:

(a) Any change in the foster or adoptive home;

(b) The ability of the foster or adoptive home parent to meet the needs of a child placed in the home; and

(c) Continuing compliance with the requirements of Sections 2 and 3 of this administrative regulation.

(4) The cabinet staff member[~~person~~] shall document requirements of subsection (3) of this section to include:

(a) A list of persons residing in or frequently in the home within the past twelve (12) months;

(b) A list of all foster children placed in the home within the past twelve (12) months and exit reasons for the children no longer in the home;

(c) Use of formal and informal support systems including:

1. Respite;

2. Extended family support; and

3. Friends or community partners;

(d) Description of parenting and discipline strategies;

(e) Changes in the physical environment including:

1. Address change; and

2. School district change;

(f) Discussion of stressors within the home to include:

1. Pregnancy or birth;

2. Physical or mental health conditions;

3. Employment changes;

4. Financial changes;

5. Death, grief, or loss;

6. Childhood trauma; and

7. Divorce or personal relationship changes;

(g) Alcohol or drug use and any substance abuse treatment;

(h) Functioning of relationships within the household;

(i) Assessment of the family's ability to meet the needs of the children placed in the home;

(j) List of foster or adoptive home reviews;

(k) Areas of concern or actions to be addressed that may exist within the household; and

(l) Placement recommendations.

Section 13. Foster or Adoptive Home Reviews. (1) Upon notification of a factor that may place unusual stress on the foster or adoptive home or create a situation that may place a child at risk, cabinet staff shall:

(a) Immediately asses the health and safety risk of the child; and

(b) Complete a review of the foster or adoptive home within thirty (30) calendar days.

(2) Factors that shall result in a review of a foster or adoptive home shall include:

(a) Death or disability of a family member;

(b) Sudden onset of a health condition that would impair a foster or adoptive parent's ability to care for a child placed in the home by the cabinet;

(c) Change in marital status or home address;

(d) Sudden, substantial decrease in, or loss of, income;

(e) Childbirth;

(f) Use of a form of punishment that includes:

1. Cruel, severe, or humiliating actions;

2. Corporal punishment inflicted in any manner;

3. Denial of food, clothing, or shelter;

4. Withholding implementation of the child's treatment plan;

5. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; and

6. Assignment of extremely strenuous exercise or work;

(g) A report of abuse, neglect, or dependency that results in a finding that:

1. Is substantiated; or

2. Reveals concern relating to the health, safety, and well-being of the child;

(h) If the foster or adoptive parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense; or

(i) Other factor identified by cabinet staff that jeopardizes the physical, mental, or emotional well-being of the child.

(3) The narrative of the review shall contain:

(a) Identifying information;

(b) Current composition of the household;

(c) Description of the situation that initiated the review;

(d) An evaluation of the foster or adoptive home's family functioning to determine if the child's needs are met; and

(e) A plan for corrective action that may include a recommendation for closure of the foster or adoptive home.

Section 14. Closure of an Approved Foster or Adoptive Home. (1) A foster or adoptive home shall be closed if:

(a) Cabinet staff determines that the family does not meet the general requirements, as specified in Sections 2 and 3 of this administrative regulation, for a foster or adoptive home;

(b) A situation exists that is not in the best interest of a child;

(c) Sexual abuse or exploitation by the foster or adoptive parent or by another resident of the household is substantiated;

(d) Substantiated child abuse or neglect by a resident of the household occurs that is serious in nature or warrants removal of a child;

(e) A serious physical or mental illness develops that may impair or preclude adequate care of the child by the foster or adoptive parent; or

(f) The cabinet has not placed a child in the home within the preceding two (2) year period.

(2) A foster or adoptive home may be closed according to the terms of the contract between the cabinet and the foster or adoptive home.

(3) If it is necessary to close an approved foster or adoptive home, the reason shall be stated by cabinet staff in a personal interview with the family, unless the family refuses or declines the personal interview.

(4) The cabinet shall:

(a) Confirm, in a written notice to the foster or adoptive parent,

the decision to close a home; and

(b) Deliver the notice to the foster or adoptive home within fourteen (14) calendar days of the interview with a foster or adoptive parent.

(5) The written notice for closure of a foster or adoptive home shall include:

(a) Notice that the cabinet shall not place a child in the home; and

(b) The reason why the foster or adoptive home is being closed.

Section 15. Reapplication. (1) A former foster or adoptive home parent whose home was closed pursuant to Section 14(1)(a) through (f) of this administrative regulation may be considered for reapproval if the cause of closure has been resolved.

(2) To reapply, a former foster or adoptive parent shall:

(a) Attend an informational meeting; and

(b) Submit the:

1. Names of references specified in Section 2(13) of this administrative regulation; and

2. Authorization for criminal records release specified in Section 2(17) of this administrative regulation.

(3) A reapplying former foster or adoptive parent shall reenroll and complete training requirements, as specified in Section 6 of this administrative regulation, unless:

(a) The former foster or adoptive parent has previously completed training requirements, as specified in Section 6(2) of this administrative regulation; and

(b) An exception to reenrollment is provided by designated cabinet staff which have ascertained that the former foster or adoptive parent otherwise meets the necessary skill level.

Section 16. Placement Considerations. (1) Unless an exception is approved pursuant to subsections[~~subsection~~] (2) or (3) of this section because a placement is in the best interest of the child and specific support services shall[~~will~~] be provided, the requirements established by this subsection shall apply to foster homes.

(a) More than six (6)[~~five (5)~~] children, including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall not reside in a foster home.

(b) More than two (2) children under age two (2), including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall not reside in a foster home.

(c) A child with medical complexity shall be placed in an approved medically complex home.

(2) To request an exception to the criteria established by subsection (1) of this section, cabinet staff shall submit the DPP-112A, DCBS Placement Exception Request, to designated cabinet staff prior to the proposed placement documenting:

(a) The reason the placement is in the best interest of the child; and

(b) Specific support services to be provided.

(3) The number of foster children residing in a foster family home may exceed the limitation established in subsection (1)(a) of this section with documentation on the DPP-112A in order to allow:

(a) A parenting youth in foster care to remain with the child of the parenting youth;

(b) Siblings to remain together;

(c) A child with an established meaningful relationship with the family to remain with the family;

(d) A family with special training or skills to provide care to a child who has a severe disability; or

(e) Other circumstances noted in the DPP-112A and approved by the service region administrator or designee.

(4) If an exception to subsection (1) or (2) of this section is necessary for a placement to occur outside of normal business hours:

(a) Cabinet staff shall verbally provide all information contained within the DPP-112A to designated cabinet staff prior to the placement;

(b) A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and

(c) The completed DPP-112A shall be submitted on the first business day following placement.

(5)[~~(4)~~] Cabinet staff shall inform the foster parent of conditions related to the child in accordance with:

(a) KRS 605.090(1)(b); and

(b) KRS 605.090(6).

(6) Cabinet staff shall place a child with higher level needs in an advanced level home or above if a relative or fictive kin placement has not been identified.

(7)[~~(5)~~] A foster or adoptive parent may adopt a child for whom parental rights have been terminated if:

(a) Foster or adoptive parent adoption is determined by cabinet staff to be in the best interest of the child;

(b) The child resides in the foster or adoptive home; and

(c) Criteria in 922 KAR 1:100 are met.

(8)[~~(6)~~] If a foster or adoptive parent expresses interest in adopting a foster child currently placed in the home and an alternative permanent placement is in the child's best interest, cabinet staff shall meet with the foster or adoptive parent prior to selection of an adoptive home to explain:

(a) Why an alternative permanent placement is in the child's best interest; and

(b) The foster or adoptive parent's right to submit a request to the cabinet to reconsider the recommendation.

Section 17. Requirements for Respite Care Providers. (1) A respite care provider shall:

(a) Be:

1. An approved foster or adoptive home; or

2. Approved in accordance with subsection (2) of this section; and

(b) Receive preparation for placement of a child, including information in accordance with:

1. KRS 605.090(1)(b); and

2. Section 4(1)(e) through (g) of this administrative regulation, if the child is designated as medically complex.

(2) If a foster or adoptive parent chooses a respite care provider who is not an approved foster or adoptive home, the respite care provider shall:

(a)1. Meet criteria established in Sections 2(1), (2), (17), (18) and 3 of this administrative regulation if respite care is provided outside the home of the foster or adoptive parent; or

2. Meet criteria established in Section 2(1), (2), (17), and (18) of this administrative regulation if respite care is provided inside the home of the foster or adoptive parent; and

(b)1. If providing respite care for a child described in Section 5(1)(b) of this administrative regulation, have:

a. Child-specific training in the mental health treatment of children or their families; or

b. A certificate of completion for twelve (12) hours of care plus training specified in 922 KAR 1:495, Section 6(1); or

2. If providing respite care for a child with medical complexity or specialized medical complexity:

a. Meet training requirements in accordance with 922 KAR 1:495, Section 7;

b. Hold a current certificate in first aid;

c. Hold a current certificate in infant, child, and adult CPR; and

d. Receive child specific training from a health professional or a foster parent who has been trained by a health professional in how to care for the specific medical needs of the child.

(3) A respite care provider:

(a) May attend pre-service training as specified in Section 6 of this administrative regulation; and

(b) Shall comply with Sections 16 and 17 of this administrative regulation.

Section 18. Waiver Review Process. (1) The department may waive requirements for a relative or fictive kin seeking approval as a child specific foster home if the removal of those requirements does not jeopardize the health, safety, or welfare of the child being placed.

(2) The department shall not grant a waiver to the

requirements established in the following sections of this administrative regulation:

(a) Section 2, subsections (1)(a) through (7), (10) through (12), (16) through (18); or

(b) Section 3, subsections (1) through (5), (6)(b), (7) through (10)(c), (10)(e) through (10)(g), (11) through (18).

(3) An applicant may request a waiver of non-safety standards. A representative of the department shall submit a written request that states the:

(a) Specific provision(s) for which a waiver is requested; and

(b) Justification for the requested waiver.

(4) A child specific foster home that seeks approval as a basic foster home or higher level shall complete all prior waived training and meet the requirements established in Sections 2 and 3 of this administrative regulation.

Section 19. Emergency Preparedness. Each foster home shall submit an emergency preparedness plan to the department that would allow the department to identify, locate, and ensure continuity of services to children who are in the custody of the cabinet.

Section 20. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DPP-107, Health Information Required for Foster or Adoptive Parents, Applicants, or Adult Household Members", 10/15;

(b) "DPP-108, Health Information Required for Foster or Adoptive Parents or Applicants Regarding Dependent Children", 10/15; and

(c) "DPP-112A, DCBS Placement Exception Request", 4/19[~~10/15~~].

(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.

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 1, 2019 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, phone (502) 564-3703, email Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish standards for public agency foster parents, adoptive parents, and respite care providers who care for children in the custody of the cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1), 199.472(1), and 605.100(1) require the cabinet to promulgate administrative regulations necessary to operate programs to fulfill the responsibilities vested in the cabinet; arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective needs; and promulgate administrative regulations to establish the process of determining an applicant's capacity for foster or adoptive parenthood.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing criteria for public agency foster parents, adoptive parents, and respite care providers.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation establishes a new category of child specific foster home provided to relative and fictive kin caregivers of children and the requirements applicants must adhere to for agency approval. The amendment establishes a waiver process for foster and adoptive parents and for child specific foster homes in which requirements that do not jeopardize the health, safety, or welfare of the child being placed may be waived by the cabinet. Unless an exception is permitted, the maximum number of children residing in a foster home is being amended to six rather than five, in accordance with Section 472(c)(1)(A)(ii)(III) of the Family First Prevention Services Act. The amendment also incorporates federal model standards into the certification and approval process of public foster care and adoptive homes and includes updates needed for consistency between public and private foster and adoptive homes and for compliance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to establish a new child specific category of foster homes for relative and fictive kin caretakers and to incorporate federal model licensing standards for public foster and adoptive homes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the cabinet to promulgate, administer, and enforce programs mandated by federal law or to qualify for the receipt of federal funds. KRS 199.472(1) requires the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for foster or adoptive parenthood.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will ensure that public foster and adoptive homes meet federal standards necessary for federal funding reimbursement and by establishing the process for which a relative or fictive kin caregiver may become a certified child specific foster home.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently over 9,000 children in foster care and approximately 5,000 foster or adoptive homes. In 2018, the cabinet substantiated or found services were needed for 32,411 unique children (TWS-M272F, 1/2/19). Establishing procedures whereby relatives and fictive kin may become foster homes for children when they are unable to remain safely in the home of their parents may reduce trauma by placing children in these approved homes with people whom they are already familiar. The cabinet highly values relative and fictive kin placements. The Annie E. Casey Foundation analysis and assessment indicated that Kentucky has approximately 16,000

active relative placements – approximately ten relative cases for every six children in foster care. Not all of these caregivers will choose to be certified as a child specific home, but the cabinet will be affected in that there will be more resource homes that need to be certified as well as additional costs through the payment of monthly per diem rates to homes that were previously not eligible.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Relative and fictive kin caregivers will make contact with the cabinet and follow the procedures outlined in this administrative regulation to become a child specific foster home. The administrative regulation provides a waiver process to facilitate approval.

(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 relative or fictive kin caregivers. The cabinet will realize increased costs, as there will be more foster homes that were previously not eligible for reimbursement for accepting a relative into their home in the circumstance that the child could not remain in their parents' home due to safety concerns. The number of relatives that will want to be approved as a child specific foster home is unknown at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will benefit children who have to be placed outside of their home by enduring less trauma through relative and fictive kin placements and the administrative regulation will provide resources to the relative and fictive kin caregivers.

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

(a) Initially: The Annie E. Casey Foundation analysis and assessment indicated that Kentucky has approximately 16,000 active relative placements – approximately ten relative cases for every six children in foster care. Not all of these caregivers will choose to be certified as a child specific home, but the cabinet will be affected in that there will be more foster homes that need to be certified as well as additional costs through the payment of monthly per diem rates to homes that were previously not eligible. Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array, including costs of this new foster home type. Federal funds will be leveraged for this program.

(b) On a continuing basis: Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs. Federal funds will be leveraged for this program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this administrative regulation will meet federal guidelines and be eligible for Title IV-E reimbursement. The implementation and enforcement of this administrative regulation are supported through funds under Title IV-E of the Social Security Act and General Funds.

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

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 677

2. State compliance standards. KRS 194A.050(1), 199.472(1), 605.100(1)

3. Minimum or uniform standards contained in the federal mandate. 16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 677

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.472, 605.100(1),16 C.F.R. 1219-1220, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 677

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

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

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

(c) How much will it cost to administer this program for the first year? Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs. Federal funds will be leveraged for this program.

(d) How much will it cost to administer this program for subsequent years? Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs. Federal funds will be leveraged for this program.

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

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

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

922 KAR 1:495. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

RELATES TO: KRS 61.870, 158.135(1)(c), 194A.005(1), 194A.050(1), 199.011[~~199.011(9)~~], 199.464, 199.472(1), 199.640, 311.720(12)[~~311.720(9)~~], 311.840(3), 314.011(5), (7), 600.020, 605.100(1), 605.150(1), 620.360, 45 C.F.R. Parts 160, 164, 42 U.S.C. 671(a), 675

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472(1), 199.640(5), 605.100(1), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary for the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 199.472(1) requires[~~authorizes~~] the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for adoptive parenthood. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.100(1) requires the cabinet to arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. In addition, 42 U.S.C. 671(a)(24) includes a certification that, before a child in foster care under the responsibility of the state is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child. This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

Section 1. Definitions. (1) "Adoptive parent" means an individual who is seeking to adopt a child placed in the custody of the cabinet.

(2) "Applicant" means an individual or family, subject to approval by the cabinet, or by a private child-placing agency, as a foster or adoptive home.

(3) "Cabinet" is defined by KRS 194A.005(1) and 600.020(7)[~~600.020(6)~~].

(4) "Care Plus" means a foster care program for a child who is determined to have specialized care needs as specified in 922 KAR 1:350, Section 5.

(5) "Child specific foster home" means an individual or family subject to approval by the cabinet as a foster family home for a relative or fictive kin placement.

(6) "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(10)[~~199.011(9)~~] and 600.020(30)[~~600.020(28)~~], if referring to a physical structure; or

(b) If referring to an individual, any individual approved as a foster parent by:

1. A child-placing agency in accordance with 922 KAR 1:310; or

2. The cabinet in accordance with 922 KAR 1:350.

(7)[~~(6)~~] "Health professional" means a person actively licensed as a:

(a) Physician as defined by KRS 311.720(12)[~~311.720(9)~~];

(b) Physician assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

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

(8)[~~(7)~~] "Medically complex" means a foster care program for a child who is determined to have a medical condition as specified in 922 KAR 1:350, Section 4.

(9)[~~(8)~~] "Professional experience" means paid employment or volunteer work in a setting where there is supervision or periodic evaluation.

(10)[~~(9)~~] "Reasonable and prudent parent standard" is defined by 42 U.S.C. 675(10).

(11)[~~(10)~~] "Respite care" means temporary care provided by another individual or family:

(a) To provide relief to a foster or adoptive parent approved in accordance with 922 KAR 1:310 or 922 KAR 1:350; and

(b) With the expectation of a child's return to the current foster or adoptive home.

(12)[~~(11)~~] "Therapeutic foster care" is defined by KRS 158.135(1)(c).

(13)[~~(12)~~] "Trauma informed care" means training developed using an organizational strengths-based framework to recognize and respond to the impact of traumatic stress on children, caregivers, and service providers with a goal to facilitate and support the recovery and resiliency of the child and family.

Section 2. General Training Requirements. (1) The purpose of the foster or adoptive parent training shall be to:

(a) Orient the applicant to the philosophy and process of the foster care or adoption programs;

(b) Develop greater self-awareness on the part of the applicant to determine strengths and needs;

(c) Sensitize the applicant to the kinds of situations, feelings, and reactions that are apt to occur with a child in the custody of the cabinet;

(d) Effect behavior so that an applicant may better fulfill the role as a foster or adoptive parent to a child; and

(e) Emphasize:

1. Self-evaluation; and

2. Experiential learning.

(2)(a) A foster or adoptive parent applicant shall complete a minimum of fifteen (15) hours of curricula in the following topic areas:

1. Information about the rights, responsibilities, and expectations of a foster or adoptive parent;

2. The importance of birth parents and culture;

3. The process of a child entering foster care;

4. Types of child maltreatment;

5. Impact of childhood trauma;

6. Stages of grief;

7. Long term effects of separation and loss;

8. Permanency planning for a child, including independent living for transitioning youth;

9. Importance of attachment on a child's growth and development and the way a child maintains and develops a healthy attachment;

10. Family functioning, values, and expectations of a foster or adoptive home;

11. Cultural competency;

12. Emergency preparedness;

13. Child development;

14. Basic discipline and behavior management skills; and

15. Reasonable and prudent parent standard.

(b) The cabinet may waive up to twelve (12) hours of preservice training curricula for an applicant seeking approval as a child specific foster home.

(c) The cabinet shall not waive the required electronic courses required by subsection (3) of this section.

(d)[~~(b) Beginning July 1, 2016,~~] Training curricula specified in paragraph (a) of this subsection shall be:

1. Provided by the cabinet; or

2. Approved by the cabinet in accordance with Section 8 of this administrative regulation.

(e)[~~(c)~~] Unless justification is documented pursuant to paragraphs (f)[~~(d)~~] and (g)[~~(e)~~] of this subsection, foster or adoptive parent training for placement of a child in the custody of the cabinet shall be completed in a group setting by each adult who resides in

the household and may provide routine care to a child in the custody of the cabinet.

(f)[~~(d)~~] A justification to provide foster or adoptive parent training other than in a group setting pursuant to paragraph (e)[~~(c)~~] of this subsection shall:

1. Include the circumstance that[~~, which~~] prevents the foster or adoptive parent training from occurring in a group setting; and

2. Be documented utilizing the DPP-113, Request for Applicant or Adult Household Member to Attend Individualized Training.

(g)[~~(e)~~] A justification completed in accordance with paragraph (f)[~~(d)~~] of this subsection shall be placed in the foster or adoptive parent's case file.

(h)[~~(f)~~] An applicant shall not receive more than eight (8) hours of individualized training during a twenty-four (24) hour period.

(3) In addition to initial training requirements in subsection (2)(a) of this section, a foster or adoptive parent applicant shall complete the following electronic courses provided by the cabinet prior to approval:

(a) Pediatric Abusive Head Trauma;

(b) First Aid and Universal Precautions;

(c) Medication Administration;[~~and~~]

(d) Medical Passports; and

(e) Reasonable and Prudent Parenting.

(4) First aid certification may substitute for the training requirement provided within subsection (3)(b) of this section if the foster or adoptive parent applicant provides documentation of current certification.

Section 3. General Annual Training Requirements. (1) Prior to or during the month of the second anniversary date of a foster or adoptive parent's initial approval, the foster or adoptive parent shall complete a minimum of thirty (30) hours of training in the following areas:

(a) Trauma informed care curriculum provided or approved by the cabinet in accordance with Section 8 of this administrative regulation;

(b) Psychotropic medications curriculum provided by the cabinet;

(c) Sexual abuse curriculum provided or approved by the cabinet in accordance with Section 8 of this administrative regulation; and

(d) Behavior management and skill development.

(2) If a private child-placing agency provides training in accordance with subsection (1) of this section prior to a foster or adoptive home's approval, the thirty (30) hours shall be in addition to the fifteen (15) hours of pre-service training required by Section 2(2) of this administrative regulation.

(3)[~~A foster or adoptive home approved prior to the adoption of this administrative regulation shall complete the training described in subsection (1) of this section within two (2) years of the effective date of this administrative regulation.~~

~~(4)~~] If training requirements of subsections (1) and (2)[~~through (3)~~] of this section are met, a foster or adoptive parent shall complete the following prior to or during each subsequent anniversary of the foster or adoptive parent's initial approval:

(a) Ten (10) hours of private child-placing agency or cabinet-sponsored training related to knowledge or skills relevant to foster parenting, or training approved in advance by the private child-placing agency or the cabinet; and

(b) If applicable, training as specified in Section 2(3)(a) of this administrative regulation once every five (5) years in accordance with KRS 199.464.

(4)(a) The cabinet may waive annual ongoing training requirements for a foster home approved as a child specific foster home.

(b) The cabinet shall assess the need for ongoing training for the child specific foster home during the annual re-evaluation[~~(5) A foster or adoptive parent shall complete training regarding the reasonable and prudent parent standard in accordance with 42 U.S.C. 671(a) and Section 2(2)(a)15 of this administrative regulation within one (1) year of the effective date of this administrative regulation~~].

Section 4. Medically Complex Foster Parent Training Requirements. (1) In addition to the general training requirements established[~~specified~~] in Section 2 of this administrative regulation and annual training requirements established[~~specified~~] in Section 3 of this administrative regulation, a medically complex foster parent applicant shall:

(a) Complete twelve (12) hours of cabinet-provided medically complex training in the following topic areas specific to children with medical complexity:

1. Growth and development;

2. Nutrition;

3.[~~An overview of procedures and techniques which may be utilized to provide care~~;

~~3. Observation and assessment~~;

~~4. Management of diet and environment;~~

~~5.~~] Documentation of provided care;

4. Medical conditions[~~6. Parenting skills~~]; and

5. Standards of practice related to the medically complex home type[~~7. Permanency planning~~]; and

(b) Hold a current certification in infant, child, and adult CPR and first aid.

(2) Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter, an approved medically complex foster parent shall:

(a) Meet the requirements in subsection (1)(b) of this section;

(b) Complete the annual training requirements as specified in Section 3 of this administrative regulation; and

(c) Complete twelve (12) hours of ongoing cabinet-provided training related to the care of children with medical complexity.

(3) Professional experience related to the care of a child with medical complexity may substitute for the initial and annual medically complex training requirements specified in subsections (1)(a) and (2)(c) of this section if approved by designated cabinet staff based on the foster or adoptive parent:

(a) Being a health professional; and

(b) Having completed twelve (12) hours of continuing education focusing on pediatrics within the past year that will assist the parent in the care of a child with medical complexity.

Section 5. Therapeutic Foster Care Training Requirements. (1) In addition to the general training requirements specified in Section 2 of this administrative regulation and annual training requirements specified in Section 3 of this administrative regulation, a therapeutic foster care applicant in accordance with 922 KAR 1:310 shall complete twelve (12) hours of private agency-sponsored training or training approved in advance by the child-placing agency in the following topic areas:

(a) Specific requirements and responsibilities of a therapeutic foster care home;

(b) Crisis intervention and behavior management;

(c) De-escalation techniques;

(d) Communication skills;

(e) Skill development;

(f) The dynamics of a child who has experienced sexual abuse or human trafficking; and

(g) The effect of substance use, abuse, or dependency by either the child or the child's biological parent.

(2) An approved therapeutic foster parent shall:

(a) Complete the annual training requirements as specified in Section 3 of this administrative regulation; and

(b) Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter, complete twelve (12) hours of private agency-sponsored training or training approved in advance by the private agency in topic areas relevant to therapeutic foster care.

(3) A therapeutic foster care applicant may concurrently complete general training requirements as specified in Section 2 of this administrative regulation and training requirements established in subsection (1) of this section.

Section 6. Care Plus Training Requirements. (1) In addition to the general training requirements specified in Section 2 of this administrative regulation and annual training requirements

specified in Section 3 of this administrative regulation, a care plus applicant in accordance with 922 KAR 1:350 shall complete twelve (12) hours of cabinet-sponsored training or training approved in advance by the cabinet in the following topic areas:

(a) Specific requirements and responsibilities of a care plus foster home;

(b) Crisis intervention and behavior management;

(c) De-escalation techniques;

(d) Communication skills;

(e) Skill development;

(f) Cultural competency;

(g) The dynamics of a child who has experienced sexual abuse or human trafficking; and

(h) The effect of substance use, abuse, or dependency by either the child or the child's biological parent.

(2) An approved care plus foster parent shall:

(a) Complete the annual training requirements as specified in Section 3 of this administrative regulation; and

(b) Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter, complete twelve (12) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet prior to or during the anniversary month of initial approval as a foster parent in the topic areas described in subsection (1) of this section.

Section 7. Respite Care Providers. If a respite provider is not approved as a foster or adoptive parent in accordance with 922 KAR 1:350 or 922 KAR 1:310, prior to initial approval as a respite care provider, the individual shall complete a minimum of two (2) hours of cabinet or private child-placing agency provided curriculum including an overview of the department and the policies and procedures of the agency related to the care of the child.

Section 8. Preapproval of Training Curricula. (1) If a private child-placing agency intends to offer curricula other than curricula provided by the cabinet as specified in Sections 2(2) or 3(1) of this administrative regulation, the private child-placing agency shall submit its curricula to the cabinet or its designee for consideration.

(2) The cabinet shall approve curricula that are:

(a) Comparable in content to curricula provided by the cabinet; or

(b) Recognized evidence-based practices.

(3) The cabinet shall make a determination:

(a) Within thirty (30) calendar days; or

(b) As a part of the child-placing agency's initial application to provide services to a child in the custody of the cabinet.

Section 9. Incorporation by Reference. (1) "DPP-113, Request for Applicant or Adult Household Member to Attend Individualized Training", 11/15, is incorporated by reference.

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

ERIC T. CLARK, Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 1, 2019 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, phone (502) 564-3703, email Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for children in the custody of the cabinet.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to distinguish and establish training requirements for foster parents, adoptive parents, and respite care providers caring for children in the custody of the cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 199.472(1) requires the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for adoptive parenthood. KRS 199.640(5)(a) requires the cabinet to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies

(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 to the administrative regulation allows the cabinet to waive up to twelve hours of preservice training as well as ongoing training requirements for child-specific relative or fictive kin foster homes.

(b) The necessity of the amendment to this administrative regulation: Applicants approved as a child-specific foster home have a prior existing relationship with the child placed in their home, and therefore a waiver of preservice training is appropriate to the specific needs of those families.

(c) How the amendment conforms to the content of the authorizing statutes: Approved child-specific foster homes will still receive minimal preservice training as required by statute for approval as a foster home and will complete the required web-based trainings.

(d) How the amendment will assist in the effective administration of the statutes: Applicants who are approved as a child-specific foster home will receive training tailored to their needs and provide them with the knowledge to care for a child with whom they are related or already possess a significant relationship.

(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 relatives and fictive kin who have a child placed with them due to the child being removed from their home for safety reasons. This number is unknown as these caregivers may not be in contact with the cabinet currently. However, Annie E. Casey Foundation's analysis and assessment indicates that Kentucky has approximately 16,000 active relative placements – approximately ten relative cases for every six children in foster care. Not all of these caregivers may want to be approved as child-specific foster

homes.

(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 waiver of the preservice training requirement will expedite the approval process for child-specific foster homes. Relative and fictive-kin caregivers will be advised of their options by DCBS staff. If they choose to move forward in pursuit of approval as a foster parent, these caregivers will be guided through the training process by DCBS staff.

(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 to comply with training requirements for participants seeking approval to become a child-specific foster home as outlined in this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Relative and fictive kin caregivers will be able to be approved as child-specific foster homes through an easier and faster process than is currently available. In addition to guidance and an array of services provided by the cabinet, approved foster homes also receive a per diem from the cabinet.

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

(a) Initially: Annie E. Casey Foundation's analysis and assessment indicate that Kentucky has approximately 16,000 active relative placements – approximately ten relative cases for every six children in foster care. If Kentucky were to reinstate kinship care program benefits for 16,000 relative placements, the fiscal impact would equate to $57.6M dollars annually. However, creating a foster home type specific for relatives and fictive kin caregivers allows for federal funding to be leveraged. The *D.O. v. Glisson* court ruling ordered DCBS to pay a foster care per diem to relatives and fictive kin caregivers raising kin children. This new child-specific foster home type will replace the funding source for this per diem and offer a wider array of service options for caregivers. This is in addition to providing clothing vouchers, special expenses, and child care assistance. From February through early December 2018, DCBS spent $9.5 million in benefits payments alone under the ruling. Current outlays are averaging $1.5 million per month, meaning that the ruling is on track to cost the cabinet $18 million in benefits by the end of SFY 2019. Application of the ruling to other like cases is absorbing and exceeding additional appropriations to DCBS for relative supports and kinship care in the current budget biennium.

(b) On a continuing basis: Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal and state funds under Title IV-E the Social Security Act and General Funds are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increases in fees or funding necessary to implement this administrative regulation.

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 671(a)(24)

2. State compliance standards. KRS 194A.050(1), 199.472, 199.640(5), 605.100(1), 605.150(1)

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 671(a)(24) includes a certification that, before a child in foster care under the responsibility of the state is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child. This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

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 allows for a waiver of training requirements as allowed per federal code.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amended administrative regulation does not impose stricter standards.

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 Community Based Services is impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.472(1), 199.640(5), 605.100(1), 605.150(1); 42 U.S.C. 671(a)(24)

(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. Currently, as a result of the *D.O. v. Glisson* court ruling, the state is spending over one million dollars per month to provide a financial benefit to relative and fictive-kin caregivers who are caring for children placed in their homes. Establishing this easier, more efficient process of approving child-specific foster homes is expected to decrease state expenditures as federal funding will be leveraged.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There will be no revenue generated as a result of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There will be no revenue generated as a result of this administrative regulation.

(c) How much will it cost to administer this program for the first year? Over $200,000 of federal funding has been secured as a result of the Family First Prevention Services Act to implement kinship supports and a kinship service array. This program will not cause an additional cost for the state agency with the exception of minor administrative costs.

(d) How much will it cost to administer this program for subsequent years? Federal funding will be leveraged and the cost will be absorbed as this new foster home type does not stray from current standards of practices with the exception of the waiver of non-safety standards.

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

JUSTICE AND PUBLIC SAFETY CABINET
(Repealer)

500 KAR 9:011. Repeal of 500 KAR 9:010, 500 KAR 9:020, 500 KAR 9:030, 500 KAR 9:040.

RELATES TO: KRS 218A.420, 218A.435
STATUTORY AUTHORITY: KRS 218A.435
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.435, the authorizing statute for the administrative regulations, has been repealed. KRS 218A.420 provides for the distribution of the asset forfeiture proceeds and requires the Attorney General to promulgate administrative regulations.

Section 1. The following administrative regulations are hereby repealed:
(1) 500 KAR 9:010. Definitions;
(2) 500 KAR 9:020. Agency forfeiture policy;
(3) 500 KAR 9:030. Reports and audits; and
(4) 500 KAR 9:040. Grants.

JOHN C. TILLEY, Secretary
APPROVED BY AGENCY: March 20, 2019
FILED WITH LRC: April 5, 2019 at 3 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2019, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, 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 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, 2019. 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: 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.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy V. Barker
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals the administrative regulations that pertained to asset forfeiture since the authorizing statute has been repealed and the Attorney General's Office has promulgated administrative regulations pursuant to KRS 218A.420 as it was amended.
(b) The necessity of this administrative regulation: The authorizing statute has been repealed.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute has been repealed.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The authorizing statute has been repealed.
(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.
(b) The necessity of the amendment to this administrative regulation: This is not an amendment.
(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment.
(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There is no effect on individuals, businesses, organizations, or state and local governments since the authorizing statute has been repealed.
(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: No entities will have to take action since the authorizing statute has been repealed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No cost is anticipated.
(c) As a result of compliance, what benefits will accrue to the entities: No benefits are anticipated.
(5) Provide an estimate of how much it will cost the administrative body 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: This is a repealer and no funding is involved.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This is a repealer and no costs or fees are involved.
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This is a repealer and no costs or fees are involved.
(9) TIERING: Is tiering applied? This is a repealer and no tiering is needed.

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 is a repeal of regulations and any impact was caused by the repeal of KRS 218A.435 and the amendment of KRS 218A.420.
(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.120, 218A.420, 218A.435
(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? Repealing the regulations do not create 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? Repealing the regulations do not create any revenue.
(c) How much will it cost to administer this program for the first year? Repealing the regulations do not create any cost.
(d) How much will it cost to administer this program for subsequent years? Repealing the regulations do not create any cost.
Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Motorcycle Safety Education Commission
(New Administrative Regulation)

500 KAR 15:010. Motorcycle safety education program.

RELATES TO: KRS 15A.350 - 15A.366, 186.401, 186.450, 186.531, 186.535

STATUTORY AUTHORITY: KRS 15A.350, 15A.352, 15A.354, 15A.356

EFFECTIVE: April 5, 2019

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.356 authorizes the Secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations that are reasonable and necessary to carry out the provisions of 15A.350 to 15A.366. This administrative regulation establishes the criteria and procedures required for approval of instructors for motorcycle safety education training, instructor training course provider requirements and selection criteria, training course requirements, fees for enrollment in a motorcycle rider training course, and training provider requirements and selection criteria.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 15A.011(1).

(2) "Commission" means the Motorcycle Safety Education Commission established pursuant to KRS 15A.362.

(3) "Instructor" means a person recognized by the cabinet who conducts motorcycle rider training and may also be known as a rider coach.

(4) "Instructor training course" means a process recognized by the cabinet that prepares an individual to teach a motorcycle rider training course.

(5) "Instructor training course provider" means a person or entity recognized by the cabinet to conduct an instructor training course.

(6) "Instructor trainer" means a person approved by the cabinet to train instructors.

(7) "Program administrator" means the person designated or appointed by the secretary of the cabinet to administer the Motorcycle Safety Education Program.

(8) "Range" means a paved area approved for practicing motorcycle riding skills during a training course.

(9) "Training provider" means a person or entity approved by the cabinet to conduct a rider training course.

Section 2. Training, Approval, and Reporting Requirements of Instructors. (1) To request approval to be an instructor, an individual shall:

(a) Meet the requirements of KRS 15A.354;

(b) Have a current motorcycle endorsement on the individual's driver's license;

(c) Provide a certified copy of the applicant's driving record for the previous five (5) years in Kentucky or other state in which the applicant holds a driver's license;

(d) Not have been convicted of a felony sex offense in KRS Chapter 510;

(e) Be able to lift the motorcycle required to be used in the training of students;

(f) Be able to perform the motorcycle maneuvers required in the training to be provided;

(g) Complete the Instructor Application in full;

(h) Successfully complete a recognized instructor training course listed on the Motorcycle Safety Education Commission website at https://justice.ky.gov/pages/motorcycle-safety-education.aspx;

(i) Provide a diploma, certificate of completion, or other similar documentation from the instructor training course to verify completion of one (1) of the recognized training courses;

(j) Have ridden a motorcycle for at least 1,000 miles within the previous twelve (12) months; and

(k) Submit the application with all other required documents to the program administrator by mailing to Motorcycle Safety Education Commission, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601.

(2) If an instructor is currently approved and requests to be requalified as an instructor for another year, the instructor shall:

(a) Not have had his driver's license suspended or revoked at any time during the preceding two (2) years or at any time within the preceding five (5) years for any alcohol or drug related offense; and

(b) Provide proof of teaching a minimum of two (2) motorcycle safety courses in the previous year; or

(c) Provide proof of teaching one (1) motorcycle safety course in the previous year; and

(d) Successfully complete in the previous year an approved instructor training course listed on the Motorcycle Safety Education Commission website; or

(e) Successfully complete in the previous year a teaching skills course provided by the cabinet or its designee.

(3) Instructor application review and processing.

(a) After review of the application:

1. If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or

2. If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.

(b) Instructor Application Approval or Denial

1. If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:

a. Approval as an instructor if all of the requirements in this administrative regulation have been met in the application and the required documentation received; or

b. Denial of approval as an instructor if all of the requirements have not been met in the application.

2. Approval for an instructor shall be valid for (1) year from the date of the approval notice.

(4) Instructor Required Notices. The instructor shall provide written notice with specific details concerning the matter to the program administrator:

(a) If the instructor's driver's license is suspended or revoked;

(b) If the instructor is convicted of a felony sex offense in KRS Chapter 510;

(c) Of teaching one (1) or two (2) motorcycle safety courses each year; and

(d) Any change in contact information.

Section 3. Instructor Training Course Provider Responsibilities. (1) An instructor training course provider shall:

(a) Provide training facilities and equipment required by the approved curriculum;

(b) Provide all course materials including handouts, books, and other items required by the approved curriculum to each participant;

(c) Obtain and maintain all certifications required to teach and certify new instructors within the curriculum being taught;

(d) Coordinate with existing instructor training course providers to deliver training sessions in a specific region based on need and available instructors or candidates;

(e) Report the following participant and course data to the program administrator;

1. Completion status of participants;

2. Contact information of participants; and

3. Instructor certification numbers, if available;

(f) Allow quality assurance inspections of its training courses at the request of the program administrator; and

(g) Conduct quality assurance visits at the request of the program administrator.

(2) Instructor Training Course Provider Required Notices. The instructor training course provider shall notify the program administrator:

(a) If the instructor training course provider or its instructor trainer has lost certification from the appropriate curriculum governing body;

(b) If the instructor training course provider or its instructor trainer has lost his or her driver's license due to suspension or

revocation;

(c) If the instructor training course provider or its instructor trainer is convicted of a felony sex offense in KRS Chapter 510; and

(d) Any change in contact information.

Section 4. Training Provider Responsibilities. (1) A training provider shall:

(a) Follow a curriculum in compliance with the Model National Standards for Entry-Level Motorcycle Rider Training published by the National Highway Traffic Safety Administration and recognized by the commission as described in Section 9(4) of this administrative regulation;

(b) Ensure a sufficient number of courses and instructors are available to meet demand in the local geographic area;

(c) Schedule classes and instructors as needed;

(d) Provide a schedule of classes to the program administrator and any schedule updates throughout the training season;

(e) Register students and take payment using the cabinet website or, if the website is unavailable, remit student tuition payments to the program administrator made payable to the Kentucky State Treasurer;

(f) Not use participant data, such as contact information, for any purpose outside of the provision of the rider education course;

(g) Keep all participant information confidential and not share with any third parties without prior approval from the cabinet;

(h) Obtain and maintain a training range, motorcycles, safety equipment, classroom, and other course equipment according to Sections 6 through 8 of this administrative regulation;

(i) Provide classroom materials such as books, handouts, videos, and other items as needed for completion of the course;

(j) Have access to a computer or other appropriate device with internet capability and printer for student and course management and printing course completion certificates;

(k) Supervise and monitor adherence of instructors to course curriculum and course delivery;

(l) Solicit student feedback and distribute course evaluations;

(m) Forward student feedback to the cabinet upon request;

(n) Maintain the following insurance:

1. General liability insurance in an amount not less than $1,000,000 underwritten by an insurance carrier licensed and approved by the Kentucky Department of Insurance, which shall include personal injury insurance for students and instructors;

2. Any insurance, including workers compensation and unemployment insurance, required by federal, state, or local law.

(o) Submit student information in a manner prescribed by the cabinet for the purpose of reimbursement of services;

(p) Issue a course completion certificate as described in Section 9(5) of this administrative regulation to a student who has successfully completed the course; and

(q) Establish and implement policies and procedures for delivery of instruction and maintenance of site location and equipment. The training provider shall submit its policies and procedures regarding maintenance of site locations and equipment for written approval or denial to the program administrator before it or any part of it becomes effective and enforceable.

(2) Training Provider Required Notices. The training provider shall notify the program administrator:

(a) If the training provider's range is no longer available or has lost certification from the appropriate curriculum governing body;

(b) Of loss or change in required insurance;

(c) If the training provider cannot deliver services due to availability of instructors or equipment;

(d) Of any accidents involving bodily injury that occur during course instruction;

(e) Of proposed changes to policy and procedures regarding maintenance of equipment or delivery of instruction prior to implementation.

(f) Of any breach involving student data within seven (7) days of discovery of the breach; and

(g) Of any change in contact information.

Section 5. Student-Instructor Ratio. The instructor to student ratio shall not exceed the following:

(1) An instructor shall not teach more than thirty-six (36) students during classroom instruction;

(2) An instructor shall not teach more than eight (8) students during range instruction if teaching alone; and

(3) Two instructors shall not teach more than twelve (12) students during range instruction.

Section 6. Training Course Range Requirements. (1) A range shall include fifty-six (56) linear feet per student at the perimeter dimension and a minimum of twenty (20) feet paved run-off area on each side.

(2) A range shall be approved by the governing body of the recognized curriculum prior to use.

(3) Student range capacity shall be the total linear feet of the perimeter divided by fifty-six (56) and rounded down.

(4) A standard range shall be 120 feet by 220 feet with a minimum paved run-off area of twenty (20) feet on each side.

(5) A modified range may be used if it meets the requirements in (1) through (3) of this section.

Section 7. Training Motorcycles. (1) A training motorcycle shall be a 500cc motorcycle or smaller;

(2) One motorcycle shall be available for each student participating in the range session;

(3) A motorcycle shall be intended by the manufacturer for street use, but may have:

(a) The headlight disabled for use on the range; or

(b) A speed or RPM limiting device installed; and

(4) A motorcycle used in the training course shall be maintained in safe operating condition according to the manufacturer's specifications.

Section 8. Training Course Range Equipment. (1) Protective Equipment. A rider shall wear the following protective equipment during range instruction:

(a) A full face or three-quarter helmet certified by its manufacturer to meet US DOT Federal Motor Vehicle Safety Standard No. 218 in good condition;

(b) A face shield, goggles, or glasses;

(c) Leather or other abrasion-resistant, full-fingered gloves;

(d) A weather appropriate, long-sleeved shirt or jacket that fully covers the arms;

(e) Long pants that fully cover the legs; and

(f) Boots or other sturdy, over-the-ankle footwear.

(2) Safety equipment. A range shall have and maintain the following equipment in close proximity to the riding area during range instruction:

(a) Class A fire extinguisher;

(b) First aid kit; and

(c) An appropriate number of cones or other markers for the outline of riding exercises.

Section 9. Rider Training Courses for Novice Riders. (1) A rider training course for novice riders shall:

(a) Meet the requirements of KRS 15A.352(2);

(b) Meet or exceed the Model National Standards for Entry-Level Motorcycle Rider Training published by the National Highway Traffic Safety Administration;

(c) Follow a curriculum recognized by the commission as described in subsection 4 of this section;

(d) Not be less than eight (8) hours of hands-on instruction for a novice course;

(e) Be provided by instructors approved by the cabinet; and

(f) Meet the training course requirements in this administrative regulation.

(2) Course materials shall include the Kentucky Motorcycle Manual maintained by the Kentucky State Police and a diagram of the motorcycle with basic parts for driving identified. Materials may also include those specific to the curriculum being taught and required by the governing body of the curriculum.

(3) Student evaluation shall include a:

(a) Written exam that addresses:

1. Current traffic laws with a focus on motorcycles; and
2. Best practices of motorcycle operation; and
(b) A skills test that demonstrates safe operation of the motorcycle in numerous situations.
(4) Training courses for novice riders recognized by the cabinet shall be listed on the Motorcycle Safety Education Commission Web site.
(5) Certificate of Completion
(a) Upon successful completion of a course that meets the requirements in this section of this administrative regulation and is included on the list of training courses for novice riders recognized by the cabinet, the student shall be issued a certificate of completion in physical or electronic format that shall include:
1. Date of course completion;
2. Provider of course taken;
3. Curriculum used in course; and
4. Certificate number.
(b) The student shall present this certificate to the Circuit Clerk in his county of residence to be used for an exemption of the skills portion of the motorcycle endorsement testing.

Section 10. Students. (1) Enrollment and Registration Requirements. A student shall:
(a) Have a valid Kentucky driver's license or Kentucky motor vehicle instructional permit;
(b) Complete and sign a liability waiver form. A student under the age of eighteen (18) shall have a liability waiver from his or her parent or legal guardian, signed on-site or notarized, authorizing the student to take the course;
(c) Complete the registration process; and
(d) Pay any required fee.
(2) Course Completion. A student shall:
(a) Attend, participate in, and complete all required training sessions; and
(b) Achieve passing scores on required tests.
(c) Upon successful completion of the program, receive a course completion certificate as prescribed in this administration regulation.

Section 11. Approval of Courses for Exemption from the Licensing Skill Test. (1) In order for a course to be approved for exemption from the licensing skill test pursuant to KRS 15A.352, a course shall:
(a) Meet the curriculum standards of and receive any approvals required by the Motorcycle Safety Foundation for motorcycle rider education or instructor training, but shall not include an online course without hands on training on a motorcycle;
(b) Meet the curriculum standards of and receive any approvals required by Total Control Training, Inc. for motorcycle rider education;
(c) Be a rider education training course administered by an approved training provider in another state which is recognized for exemption from the motorcycle licensing skill test in that state; or
(d) Be submitted to and approved by the commission for inclusion on the list.
(2) The courses approved for exemption by the commission shall be published on the commission's website.

Section 12. Data and Reporting. (1) All reports shall be submitted electronically to the cabinet through the commission's website. If the program website is unavailable, reports shall be sent by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601.
(2) A training provider shall report to the program administrator:
(a) Course schedules and updates;
(b) Student attendance;
(c) Student contact information;
(d) Student driver's or permit license information;
(e) Course completion date;
(f) Whether student passed or failed course;
(g) Skills waiver card number if issued;
(h) Student feedback evaluations when requested; and
(j) Evaluations of instructors and the instructor training course provider.
(3) An instructor training course provider shall report to the program administrator:
(a) Student attendance;
(b) Results and recommendations for instructor candidates upon completion of training; and
(c) Results of quality assurance visits for both instructors and training providers.

Section 13. Quality Assurance. (1) An instructor shall:
(a) Maintain all appropriate certifications required by the governing body of the recognized curriculum; and
(b) Participate in all required professional development activities as prescribed by the governing body of the recognized curriculum or cabinet.
(2) Instructor training course providers shall:
(a) Conduct periodic audits and provide feedback to instructors for the purpose of professional development at the request of the program administrator; and
(b) Maintain all appropriate certifications required by the governing body of the recognized curriculum.
(3) Portions of student evaluation form results may be made available for professional development to the following:
(a) Instructors;
(b) Instructor training course providers; and
(c) Training providers.
(4) The cabinet program administrator or designee may conduct audits as needed to review quality of instruction, range condition, equipment condition, and compliance with financial and other reporting requirements.

Section 14. Fees. (1) A fee shall not be required for an individual who is:
(a) At least sixteen (16) years of age;
(b) Less than eighteen (18) years of age;
(c) A Kentucky resident; and
(d) Has a valid motor vehicle instructional permit or driver's license.
(2) A fee not to exceed $150 may be required for an individual who is:
(a) At least eighteen (18) years of age;
(b) A Kentucky resident; and
(c) Eligible for a motor vehicle instruction permit.
(3) Any fee shall be paid upon registration and shall not be refundable.
(4) Any fee shall be paid by check or money order made payable to the Kentucky State Treasurer or other means established through the Justice and Public Safety Cabinet website.

Section 15. Training Provider Selection Criteria. (1) To request to be a training provider, the applicant shall:
(a) Complete the Training Provider Application in full;
(b) Submit evidence showing the person or entity has the ability meet the required responsibilities as prescribed in this administrative regulation. This shall include:
1. Description of expertise in offering this or similar type of program;
2. Range approval certification or application for certification;
3. Schedule of range availability or proposed course schedule;
4. List of training motorcycles including VIN number or plan to acquire them;
5. Maintenance records of owned motorcycles, if available;
6. Copies of policies or quotes to obtain required insurance;
7. Business plan showing anticipated costs and revenues to determine viability; and
8. Policy and procedures manual for course delivery, site, and equipment maintenance.
(c) Submit the application with all other required documents to the program administrator by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort,

Kentucky 40601.

(2) Application review and processing.

(a) After review of the application:

1. If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or

2. If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.

(b) Application approval or denial.

1. If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:

a. Approval as a training provider if all of the requirements have been met in the application and send a certificate of approval. A contract between the cabinet and training provider shall also be sent for the training provider to sign and return to the cabinet within thirty (30) days of receipt; or

b. Denial of approval as a training provider if all of the requirements have not been met in the application.

2. Approval for a training provider shall be valid for two (2) years from the date of the approval notice.

Section 16. Instructor Training Course Provider Selection Criteria. (1) To request to be an instructor training course provider, the person or entity shall:

(a) Complete the instructor training course provider application in full;

(b) Provide a diploma, certificate of completion, or other similar documentation from the instructor training course to verify completion of one (1) of the approved training courses for each instructor trainer;

(c) Submit evidence showing the person or entity has the ability meet the required responsibilities and course requirements in this administrative regulation. This shall include:

1. Description of expertise in offering this or similar type of program;

2. Copies of policies or quotes to obtain all required insurance;

3. Business plan showing anticipated costs and revenues to determine viability;

4. Policy and procedure manual or plan for new instructor training, quality assurance, and existing instructor professional development; and

5. Cost schedule for each type of class including number of participants, if applicable, and quality assurance visits.

(d) Submit the application with all other required documents to the program administrator by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601.

(2) Application review and processing. After review of the application:

(a) If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or

(b) If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.

(3) Application approval or denial:

(a) If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:

(b) Approval as an instructor training course provider if all of the requirements have been met in the application and send a certificate of approval. A contract between the cabinet and instructor training course provider shall also be sent for the instructor training course provider to sign and return to the cabinet within thirty (30) days of receipt; or

(c) Denial of approval as a trainer if all of the requirements have not been met in the application.

(4) Approval for instructor training course provider shall be valid for two (2) years from the date of the approval notice.

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

(a) "Model National Standards for Entry-Level Motorcycle Rider Training", NHTSA, DOT HS 811 503, August 2011.

(b) "Model National Administrative Standards for State Motorcycle Rider Training Programs" NHTSA, November 2014, Report No. DOT HS 812 071.

(c) "Training Instructor Application", Motorcycle Safety Education Program, 2019.

(d) "Instructor Training Course Provider Application", Motorcycle Safety Education Program, 2019.

(e) "Training Provider Application", Motorcycle Safety Education Program, 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Motorcycle Safety Education Program, Office of the Secretary, 125 Holmes Street, Frankfort, Kentucky 40601 phone (502) 564-7554, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. The applications may also be obtained from the Motorcycle Safety Education Commission website at https://justice.ky.gov/Pages/Motorcycle-Safety-Education.aspx. The standards may also be obtained from the U.S. Department of Transportation, National Highway Traffic Safety Administration website in the Motorcycle Safety area at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/811503.pdf and https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812071-modelnatladmin motorcycle.pdf.

This is to certify that the Motorcycle Safety Education Commission approved this administrative regulation prior to its filing by the Justice and Public Safety Cabinet with the Legislative Research Commission as required by KRS 13A.120(3), 13A.220(6)(a), and 15A.364(1) as reflected by the signature below.

JOHN C. TILLEY, Secretary
STEVE HANLON, Chairperson

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 5, 2019 at 3 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.RegsContact@ky.gov.

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JOHN C. TILLEY, Secretary
STEVE HANLON, Chairperson

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 5, 2019 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2019 at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, 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, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: It establishes the Motorcycle Safety Education Program requirements.

(b) The necessity of this administrative regulation: This regulation is required by KRS 15A.350.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It establishes the Motorcycle Safety Education Program requirements from KRS 15A.350, 15A.352, 15A.354, and 15A.356.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets forth the details of the Motorcycle Safety Education Program including the requirements for instructor approval, training provider approval, and training course requirements.

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

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Justice and Public Safety Cabinet, the Motorcycle Safety Education Commission, the Transportation Cabinet, Circuit Court Clerks, Kentucky State Police, approximately 150,000 motorcycle riders, approximately 75 instructors, approximately 10 training providers, and approximately 5 training instructor course providers

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Application will have to be made to be an instructor, training provider, or instructor training course provider. Each will have to comply with the course and training requirements. The cabinet will have to comply with the regulation in reviewing applications.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): A motorcycle rider who becomes a student of the program may incur a tuition fee of up to $150. An instructor will need to provide a periodic background check at a cost of $5. The costs to a training provider will vary depending on the level of insurance, amount and type of equipment they choose to purchase when providing the service. Training instructor course providers' costs may also vary due to the level if insurance they choose to purchase and type of equipment. There are no direct costs to the Transportation Cabinet, Circuit Clerks, and Kentucky State Police. The costs to the Justice and Public Safety Cabinet relates to the number of man hours needed to process applications and invoices and insure compliance with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Motorcycle riders will receive an education in safe riding skills as well as potential insurance discounts. Instructors are paid for each class they teach which varies based on the type and length of the class. A training provider may be compensated at a rate of $200 per student from the Motorcycle Safety Education Fund. Instructor training course providers are compensated based on the type of training, travel, or other services provided from the Motorcycle Safety Education Fund. The benefit to all is in safer roadways.

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

(a) Initially: Approximately $100,000 in order to process all applications and contracts under this regulation.

(b) On a continuing basis: Normal operation of the program is expected to be approximately $750,000 per fiscal year, but can fluctuate depending on the number of riders trained. This includes the pay outs to the providers and trainers for their services, as well as the administrative functions handled at the Justice and Public Safety Cabinet.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Motorcycle Safety Education Fund established in KRS 15A.358

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation establishes the fee that may be charged to adult participants in the training program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. The administrative regulation establishes the fee that may be charged to adult participants in the training program.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Justice and Public Safety Cabinet, the Motorcycle Safety Education Commission, the Transportation Cabinet, Circuit Court Clerks, Kentucky State Police

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.350, 15A.352, 15A.354, 15A.356

(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 fee established in this administrative regulation is estimated to be approximately $350,000, but is paid to the training provider for the training that is provided. The funding for this program is codified in KRS 186.050 and 186.531.

(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 fee established in this administrative regulation is estimated to be approximately $500,000, but is paid to the training provider for the training that is provided. The funding for this program is codified in KRS 186.050 and 186.531.

(c) How much will it cost to administer this program for the first year? It is estimated to cost approximately $500,000 the first year including payments to the site providers, trainers and administrative costs. This will vary based on the number of students and providers across the state.

(d) How much will it cost to administer this program for subsequent years? It is estimated to cost approximately $750,000 per year, but will vary depending on the number of students and site providers within the state.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Repealer)

804 KAR 7:031. Repeal of 804 KAR 7:030.

RELATES TO: KRS 243.490, 243.500.
STATUTORY AUTHORITY: KRS 241.060
NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate administrative regulations regarding matters over which it has jurisdiction. This administrative regulation repeals 804 KAR 7:030 which defines the term "locked department." The necessary substantive provision of this administrative regulation is being incorporated in 804 KAR 7:020 by contemporaneous amendment.

Section 1. 804 KAR 7:030, Locked Department, is hereby repealed.

CAROL BETH MARTIN, Acting Commissioner
K. GAIL RUSSELL, Secretary
APPROVED BY AGENCY: April 15, 2019
FILED WITH LRC: April 15, 2019 at 11 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 1:00 p.m. on May 27, 2019 at 1003 Twilight Trail. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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: Marc Manley, Executive Adviser, 1003 Twilight Trail, Frankfort, Kentucky; phone 502-782-1045, fax 502-564-7479, email marc.manley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Marc Manley
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 804 KAR 7:030, whose necessary substantive provisions are being incorporated into 804 KAR 7:020 for ease of use and administrative efficiency.
(b) The necessity of this administrative regulation: Regulation 804 KAR 7:030 is no longer needed because the necessary substantive provisions of this administrative regulation have been incorporated in 804 KAR 7:020 by contemporaneous amendment for administrative efficiency.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 241.060(1) authorizes the board to promulgate administrative regulations regarding matters over which it has jurisdiction.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The repeal of 804 KAR 7:030 enhances administrative efficiency.
(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: Licensees required to hold inventory in a locked department will face fewer administrative regulations to comply with that requirement as a result of this repealer.
(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: No regulated entity is required to take action as a result of this repealer.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No cost is associated with this repealer.
(c) As a result of compliance, what benefits will accrue to the entities: Licensees required to hold inventory in a locked department will face fewer administrative regulations to comply with that requirement as a result of this repealer.
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No extra costs are anticipated to implement this repealer.
(b) On a continuing basis: No extra costs are anticipated for this repealer.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No new funding will be necessary to implement and enforce this repealer.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no anticipated increase in fees or funding necessary to implement this repealer.
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This repealer does not directly or indirectly increase any fees.
(9) TIERING: Is tiering applied? No tiering is applied because this is a repealer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Alcoholic Beverage Control
(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 241.060(1) authorizes the board to promulgate administrative regulations regarding matters over which it has jurisdiction. 804 KAR 7:020 is being amended contemporaneously and incorporates the substantive provisions of this administrative regulation.
(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? No revenue will be generated by this repealer.
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this repealer.
(c) How much will it cost to administer this program for the first year? There are no costs associated with this repealer.
(d) How much will it cost to administer this program for subsequent years? There are no costs associated with this

repealer.

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: Not applicable

PUBLIC PROTECTION CABINET
Department of Insurance
(Repealer)

806 KAR 9:061. Repeal of 806 KAR 9:060.

RELATES TO: KRS 304.9-105, 304.9-390, 304.9-432

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation repeals 806 KAR 9:060 because the administrative regulation is no longer necessary due to technological advances. Agents and adjusters licensed pursuant to KRS 304.9-105, 304.9-430, or 304.9-432 are able to download and print their identification cards from the Department's e-services portal.

Section 1. 806 KAR 9:060, Identification Cards, is hereby repealed.

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on May 24, 2019 at 215 W. Main St., Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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 O'Connor II, Deputy Commissioner, 215 W. Main St., Frankfort, Kentucky 40602, phone 502-564-6026, fax 502-564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 806 KAR 9:060, which is outdated and no longer required.

(b) The necessity of this administrative regulation: This administrative regulation repeals 806 KAR 9:060, which is outdated and no longer required. The Department of Insurance no longer has a need to print out, laminate, and provide identification cards to licensed adjusters in Kentucky. All agents, brokers, and adjusters are now able to print their own cards from the Department's E-services portal, whether for display in their office or for use in the field.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation repeals 806 KAR 9:060, which is outdated and no longer required. The Department of Insurance no longer has a need to print out, laminate, and provide identification cards to licensed adjusters in Kentucky. All agents, brokers, and adjusters are now able to print their own cards from the Department's E-services portal, whether for display in their office or for use in the field.

(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 repealer.

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

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation repeals 806 KAR 9:060, which is outdated and no longer required. The Department of Insurance no longer has a need to print out, laminate, and provide identification cards to licensed adjusters in Kentucky. All agents, brokers, and adjusters are now able to print their own cards from the Department's E-services portal, whether for display in their office or for use in the field.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Department of insurance licensees, particularly adjusters, may be affected by this repealer, to the extent that it was adjuster advocates who argued for the promulgation of this regulation and for the Department to provide identification cards for use in the field. This was done before licensing was electronic and did not contemplate licensees being able to print out their own documentation and proof of licensure through an e-services portal.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Licensed insurance adjusters who wish to have an ID card for field work will be able to print their own rather than go through the Department to procure one. This cuts out a step in the process, improving efficiency for licensees and for the Department.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no added cost to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities: Licensed insurance adjusters who wish to have an ID card for field work will be able to print their own rather than go through the Department to procure one. This cuts out a step in the process, improving efficiency for licensees and for the Department.

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

(a) Initially: There is no cost to implement this repealer.

(b) On a continuing basis: There is no cost to implement this repealer.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is needed for the implementation and enforcement of this repealer.

(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 needed for the implementation and enforcement of this repealer.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This is a repealer.

(9) TIERING: Is tiering applied? Tiering is not applied because this is a repealer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This administrative regulation repeal will not generate revenue for the 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 repeal will not generate revenue for the state or local government.

(c) How much will it cost to administer this program for the first year? There will be no cost to administer this repeal of an administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There will be no cost to administer this repeal of an administrative regulation.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: The Department no longer spends funds or time to print, laminate, and mail identification cards to licensees, so there will be no fiscal impact from the repeal of this administrative regulation.

PUBLIC PROTECTION CABINET
Department of Insurance
(Repealer)

806 KAR 9:321. Repeal of 806 KAR 9:320.

RELATES TO: KRS 304.15-020, 304.15-700-304.15-725

STATUTORY AUTHORITY: KRS 304.2-110(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation repeals 806 KAR 9:320 because the necessary substantive provisions are more efficiently addressed in a single administrative regulation governing all life settlement licensees at 806 KAR 9:310, which is being concurrently amended to incorporate life settlement providers.

Section 1. 806 KAR 9:320, Life settlement provider license, is hereby repealed.

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 11:00 a.m. on May 24, 2019 at 215 W. Main St., Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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 O'Connor II, Deputy Commissioner, 215 W. Main St., Frankfort, Kentucky 40602, phone 502-564-6026, fax 502-564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 806 KAR 9:320, whose necessary substantive provisions are being incorporated into 806 KAR 9:310 for administrative efficiency and ease of use by licensees.

(b) The necessity of this administrative regulation: This is a repealer.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This is a repealer.

(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 repealer.

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All would be life settlement providers will be affected by this repealer; they will now find the regulation governing their application as part of 806 KAR 9:310.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: This is a repealer.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no cost to comply with this repealer.

(c) As a result of compliance, what benefits will accrue to the entities: This repealer will simplify compliance for all life settlement licensees, who will have a single administrative regulation to reference at 806 KAR 9:310.

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

(a) Initially: There will be no cost to the Department to implement this repealer.

(b) On a continuing basis: There will be no cost to the

Department to implement this repealer.

(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 this repealer.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this repealer.

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

(9) TIERING: Is tiering applied? Tiering is not applied because this is a repealer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Contact person: Patrick O'Connor II

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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? This administrative regulation repealer will not generate revenue for the 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 repealer will not generate revenue for the state or local government.

(c) How much will it cost to administer this program for the first year? There will be no 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 no cost to administer this program for the first year.

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: None.

PUBLIC PROTECTION CABINET
Department of Insurance
(Repealer)

806 KAR 10:051. Repeal of 806 KAR 10:050.

RELATES TO: KRS 304.1-070, 304.10-030, 304.10-040, 304.10-050, 304.10-060, 304.10- 070, 304.10-160

STATUTORY AUTHORITY: KRS 13A.310, 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate regulations to aid in the effectuation of any provision of the Insurance Code, as defined in KRS 304.1-010. KRS 13A.310 requires that an administrative regulation, once adopted, cannot be withdrawn, but shall be repealed if it is desired that it no longer be effective. KRS 304.10-050 requires the commissioner to promulgate administrative regulations prescribing the affidavit form and the manner and form of filing the surplus lines broker affidavit of eligibility for export. This administrative regulation repeals 806 KAR 10:050, Surplus lines affidavits, which is no longer necessary due to the amendments to 806 KAR 10:030 simplifying the filing requirements for surplus lines affidavits and the payment of surplus lines taxes.

Section 1. 806 KAR 10:050, Surplus lines affidavits, is hereby repealed.

NANCY G. ATKINS, Commissioner
K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: April 15, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 9:10 a.m. on May 24, 2019 at 215 W. Main Street, Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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. on May 31, 2019. 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 O'Connor II, Deputy Commissioner Policy, 215 W. Main Street, Frankfort, Kentucky 40602, phone 502-564-6026, fax 502-564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulations repeals 806 KAR 10:050 which will conflict with the amendments to 806 KAR 10:030 simplifying the process for reporting of affidavits and payment of surplus lines taxes. The amendments to 806 KAR 10:030 provide a condensed period to file the surplus lines affidavits used by the Department to generate the surplus lines premium tax reports and invoices.

(b) The necessity of this administrative regulation: The administrative regulation is necessary to resolve conflicts with the amendments to 806 KAR 10:030.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The surplus lines affidavit reporting process is now included under the process detailed in 806 KAR 10:030 that establishes the timeframe for reporting as required by KRS 304.10-050.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:The administrative regulation removes any conflict with the streamlined process considered by the amendments to 806 KAR 10:030.

(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 repealer.

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All brokers authorized to write surplus lines transactions will be impacted. The Department has licensed 1,864 individual surplus lines brokers (resident and non-resident),

and 742 business entities (resident and non-resident). The brokers will need to utilize 806 KAR 10:030, as amended, for the filing and reporting requirements.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Surplus lines brokers will need to comply with the filing requirements included within 806 KAR 10:030, as amended.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Surplus lines brokers already report affidavits, so it is unlikely to result in any increased costs.

(c) As a result of compliance, what benefits will accrue to the entities: Surplus lines brokers will utilize the electronic portal for all of the affidavit filing requirements, obtain quarterly tax reports from the Department, pay any taxes owed electronically, and review a history of all quarterly filings.

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

(a) Initially: The Department does not anticipate any initial cost.

(b) On a continuing basis: The Department does not anticipate any continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will not be required utilize any additional funding for implementation of this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied as the administrative regulation applies to all surplus lines brokers.

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 Insurance.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110, KRS 304.10-050, KRS 304.10-210, and KRS 13A.310.

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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 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? The administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? The administrative regulation will not cost anything.

(d) How much will it cost to administer this program for subsequent years? The administrative regulation will not cost anything.

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: None.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Repealer)

902 KAR 50:101. Repeal of 902 KAR 50:100.

RELATES TO: KRS 194A.050, 217C.040

STATUTORY AUTHORITY: KRS 194A.050(1), 217C.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217C.040 requires the secretary to adopt rules and administrative regulations regulating the examination, grading, labeling, standards of identity, and other matters relating to milk and milk products. This administrative regulation repeals 902 KAR 50:100 as the sanitation rating methods of Grade A milk producers, processors, and handlers are incorporated by reference in 902 KAR 50:110, which contains Grade A milk and milk products standards.

Section 1. 902 KAR 50:100, Grade A milk sanitation ratings, is hereby repealed.

JEFFREY D. HOWARD, JR., M.D., Commissioner
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 20, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks, email JulieD.Brooks@ky.gov, phone 502-564-3970; and Chase Coffey

(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 50:100.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to repeal 902 KAR 50:100.

(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.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The repeal of 902 KAR 50:100 is consistent with Governor Bevin's Red Tape Reduction initiative to repeal obsolete regulations. This

administrative regulation is 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 a new administrative regulation.

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The requirements of 902 KAR 50:100 are being included in 902 KAR 50:110; therefore, this repeal has no impact on affected individuals, businesses, organizations, or 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: List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): There are no costs associated with the compliance of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will result in the repeal of an obsolete administrative regulation.

(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 administrative regulation.

(b) On a continuing basis: There are no costs to the administrative body associated with this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no cost to the administrative body associated with this administrative regulation or the enforcement of such.

(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 administrative regulation.

(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. Tiering is not applicable as this administrative regulation repeals 902 KAR 50:100.

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 50:100 impacts only the Department for Public Health Milk Safety Branch and no action is required.

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), 217C.070.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year 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? This administrative regulation does not generate revenue.

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

(c) How much will it cost to administer this program for the first year? There are no costs to the administrative body associated with this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There are no costs to the administrative body associated with this administrative regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of April 9, 2019

Call to Order and Roll Call

The April meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, April 9, 2019 at 1:00 p.m. In Room 149 of the Capitol Annex. Senator West, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the March 2019 were approved.

Present were:
Members: Senators Perry Clark, Alice Forgy Kerr, Julie Raque Adams, and Stephen West. Representatives David Hale, Deanna Frazier, and Tommy Turner.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

Guests: Beau Barnes, Teachers' Retirement; Brigadier General Steven Bullard, Colonel Wayne Burd; Department of Military Affairs; Scott Majors, Board of Physical Therapy; Alicia Boyd, Mary Harville, Jennifer Luhrs, Kentucky Lottery Corporation; Ron Brooks, Brian Clark, Chris Garland, Gabe Jenkins, Kevin Kelly, Rich Storm, Karen Waldrop; Department for Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Tod Allen, Department of Education; Tim Cocanougher, Tony Cotto, Claims Commission; Barbara Borden, Scott Chapman, Jamie Eads, Vince Gabbard, John Forgy, Marc Guilfoil, Doug Hendrickson, Steve May, Mary Scollay, Mark Simmendinger, Horse Racing Commission; Stephanie Brammer-Barnes, Steve Davis, Matt Kleinert, Office of Inspector General; Robert Putt, Office of Health Data and Analytics; Julie Brooks, Monica Clouse, Department for Public Health; Jonathan Scott, Department for Medicaid Services; Laura Begin, Mary Carpenter, Elizabeth Caywood, Department for Community Based Services; Michael Abell, Sportsmen and Women United; Pete Blandford, Kentucky Quality Deer Management; Mary DeLodder, Perry McClure, Kentucky Crossbow Federation, Jamie Gray, Chet Hayes, League of Kentucky Sportsmen; Jacob Hencke, Larry Richards, Safari Club International, Judy Roberts, Michael Roberts, United Bow Hunters of Kentucky; Jean Ellen Spieles, Jim Strader, Gary Williams, Kentucky Bow Hunters Association; Joe Costa, The Red Mile; Seth DePasquale, Peter Ecabert, Martin Maline, Horseman's Benevolent and Protective Association; Clara Fenger, Dr. Andrew Roberts, North American Association of Racetrack Veterinarians; Chauncey Morris, Kentucky Thoroughbred Association; Michael Balor, Wyatt, Tarrant and Combs; Michael Buchanon, Warren County Judge Executive; Mark Guilfoyle, Wade Stone, The Medical Center of Bowling Green; Lili Lutgens, Therapeutic Intervention Services.

The Administrative Regulation Review Subcommittee met on Tuesday, April 9, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System: General Rules

102 KAR 1:163. Collection of life insurance benefits. Beau Barnes, deputy executive secretary of operations and general counsel, represented the system.

A motion was made and seconded to approve the following amendments: 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.

102 KAR 1:168. Survivor's benefits.

A motion was made and seconded to approve the following amendments: 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.

102 KAR 1:320. Qualified domestic relations orders.

A motion was made and seconded to approve the following amendment: to amend Section 7 to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

DEPARTMENT OF MILITARY AFFAIRS: Division of Emergency Management: Disaster and Emergency Services

106 KAR 1:081. Kentucky Emergency Response Commission (KERC) Tier II reporting and fee schedule requirements; Extremely Hazardous Substance (EHS) facility planning participation requirements. Brigadier General, Retired, Steven Bullard, director of administrative services and legislative liaison, Department of Military Affairs, and Colonel Wayne Burd, assistant director for operations, represented the division.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO 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.

106 KAR 1:091. Kentucky Emergency Response Commission (KERC) fee account grant requirements for Local Emergency Planning Committees (LEPCs).

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3, 5, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 8 to add a checklist incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

106 KAR 1:101. Kentucky Emergency Response Commission (KERC) fee account grant requirements for state agencies.

106 KAR 1:111. Kentucky Emergency Response Commission (KERC) fee account grant review committee.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

106 KAR 1:121. Kentucky Emergency Response Commission (KERC) fee account grant distribution formula.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Physical Therapy

201 KAR 22:020. Eligibility and credentialing procedure. Scott Majors, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 5 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) restore existing language that was inadvertently deleted. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Lottery Corporation

202 KAR 3:040. Internal audit. Alicia Boyd, vice president of audits; Mary Harville, general counsel; and Jennifer Luhrs, staff attorney, represented the corporation.

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

301 KAR 2:172. Deer hunting seasons, zones, and requirements. Brian Clark, staff attorney; Rich Storm, commissioner; and Karen Waldrop, deputy commissioner, represented the department. Pete Blandford, president, Kentucky Quality Deer Management; Chet Hayes, president, League of Kentucky Sportsmen; and Perry McClure, president, Kentucky Crossbow Federation, appeared in support of these administrative regulations. Jamie Gray, sportsman; Larry Richards, president, Kentucky Chapter, Safari Club International; Ellen Spieles, resident landowner; Jim Strader, outdoor reporter, WHAS radio; and Gary Williams, Western Kentucky bow hunter, appeared in opposition to these administrative regulations.

In response to a question by Co-Chair West, Mr. Storm stated that these administrative regulations proposed to expand Kentucky's crossbow season. The most common request from sportsmen was that Kentucky offer more crossbow opportunities. Surveys consistently demonstrated strong support for expanding Kentucky's crossbow season, and biological studies indicated that a longer season would not negatively impact wildlife resources. Buck and doe harvests were tracked based on hunting method, and data demonstrated that concerns about deer overharvesting were unwarranted. The proposal was not for a fully concurrent archery – crossbow deer-hunting season, but for a longer crossbow hunting season. Every bordering state, Southeastern state, and twenty-eight (28) states in total had a fully concurrent archery – crossbow deer-hunting season. The department had worked with stakeholders and the public since 2016 to develop the compromise established in these administrative regulations.

In response to questions by Senator Raque Adams, Mr. Storm stated that implementation of crossbow hunting during the rutting and breeding season would not diminish the deer herd in any way. The decreasing rate of hunting in Kentucky might be attributed, at least in part, to increasing rates of land leasing. Other contributing factors were an aging or otherwise-occupied population. Ms. Waldrop added that the decreasing rate of hunting might also be the result of fewer places to hunt; therefore, the department had made efforts to provide as many hunting opportunities and venues as possible, including through public, private, and leasing agreements. A crossbow had a trigger and was held horizontally but was still considered archery equipment, rather than a firearm. Crossbows had a different season from other archery equipment. Mr. Clark stated that the department preferred to use the term, "hunting method," in lieu of specific weapon designations. Senator Adams stated that materials supplied to support this proposal were misleading. The materials depicted that almost every state had a concurrent archery – crossbow season, making Kentucky an outlier; however, the Kentucky deer season began significantly earlier than in surrounding states.

Mr. Hayes stated that the League of Kentucky Sportsmen represented traditional archery hunters and crossbow hunters. The league supported these administrative regulations without further modification because crossbow as a hunting method was growing in popularity and many league members had been led to reconsider previous opposition. The Deer Working Group reached a consensus in the development of these administrative regulations. Implementation of this proposal should not negatively impact Kentucky's wildlife resources. There were numerous opportunities for all interested stakeholders to be involved in the development of these administrative regulations. These administrative regulations would provide increased opportunities for sportsmen to make use of a sustainable Kentucky resource, which was in need of additional control in many areas. There would be no loss of hunting days for any hunting method user group, while there would be new opportunities for crossbow hunters.

Mr. Blandford stated that Kentucky Quality Deer Management wholly supported these administrative regulations. Crossbow hunting was easier for youth, smaller hunters, and those with less strength. This proposal was fair because crossbows were archery equipment, and it had been discriminatory for crossbow hunters to have fewer hunting opportunities based on hunting method.

Mr. McClure stated that the Kentucky Crossbow Federation fully supported 301 KAR 2:172 without further modification. Department biologists determined that this proposal would not be detrimental to Kentucky's deer resources. Each hunter should be allowed to use the hunting method of his or her choice.

Mr. Strader stated that he hunted with a crossbow and was not opposed to its use generally. He was opposed to a crossbow season that extended to the pre-rutting season because it would be detrimental to the buck population at a vulnerable time. Because a crossbow was advertised to shoot like a rifle and did shoot like a rifle, it was inappropriate as a hunting method during the rutting season. This issue was about money for the crossbow industry, with the result being detrimental to Kentucky's deer resources. Land leasing was primarily responsible for the decrease in hunting. He also stated that stakeholders had addressed this issue with the department ten (10) years prior, and the department, the legislature, and sportsmen had agreed to a compromise to not expand crossbow use. The department's denial of the compromise was untrue. About four (4) or five (5) compromises were considered at the meeting ten (10) years prior. One (1) of the proposed compromises was to begin the season later with five (5) extra weeks of crossbow hunting.

Representative Turner stated that he, Representative Hale, and at the time, Representative Webb, were present at that meeting. It lasted all day, but ultimately stakeholders were unsuccessful in reaching a final agreement.

Ms. Spieles stated that Carter County's deer population had been reduced due to a recent outbreak of Epizootic Hemorrhagic Disease (EHD.) The modern crossbow was being marketed as a rifle. States that surrounded Kentucky had a much later deer season and prohibited baiting. The argument that crossbow hunting was useful for smaller or weaker hunters was a spurious one. Ms. Spieles showed a picture of an eight (8) year-old girl who had taken a buck using traditional archery equipment. Hunting was a privilege and a responsibility, not a right. The structure of Kentucky's deer season would be detrimental to deer resources. In response to a question by Co-Chair Hale, Ms. Spieles requested that the subcommittee find these administrative regulations deficient because the early deer season structure was inappropriate in a state that allowed baiting.

Mr. Richards stated that the Kentucky Chapter of the Safari Club International was opposed to these administrative regulations because they would be detrimental to Kentucky's deer resources. Deer hunting in Kentucky was a $770 million annual event, and this proposal put that income at risk. Data from the department demonstrated that seventy-two (72) percent of Kentucky hunters would harvest one (1) deer annually. Most of the deer harvested would be killed with a firearm. Expanding the crossbow season would not increase the kill rate, nor would it improve the status of the deer resources. Many sportsmen were opposed to this proposal. The public had not had adequate opportunity to provide input in the development of these administrative regulations. For example, the public hearing was held during the workday so that those who worked and wanted to attend would have to be absent from their jobs. This proposal would increase the doe population, not the buck population, which could actually increase the rate of vehicle collisions with deer. More data and perhaps a pilot program approach was needed.

Mr. Gray stated that he was not opposed to the use of a crossbow but was opposed to such an early crossbow season. There were fawns that would still be unweaned at the beginning of the proposed crossbow season. The department should be making the reduction of the doe population a priority because most vehicle collisions involved does. Kentucky's crossbow season should begin later as part of the muzzleloader season. The deer breeding season in Kentucky was very different from the northern part of the country. The time periods for bucks to shed antlers varied from year to year.

Mr. Williams stated that bow hunting was challenging, but crossbow use was far less challenging. The department should consider a three (3) year pilot study to increase hunting. More

research was needed. Kentucky was losing traditional archery. Mr. Williams asked the subcommittee to request deferral of these administrative regulations. The department had not been supportive of traditional bow hunters.

Co-Chair Hale stated that Representative Turner had been a long-term supporter of Kentucky sportsmen. All stakeholders had been given adequate opportunity to contribute, but an agreement had not been reached at the meeting ten (10) years prior. A lot of effort and study had been made in the development of these administrative regulations. Approximately seventy (70) percent of commenters who had contacted Co-Chair Hale were in support of these administrative regulations. While he did not support all provisions of these administrative regulations, Co-Chair Hale reminded participants that this subcommittee did not approve administrative regulations.

In response to a question by Senator Raque Adams, Ms. Waldrop stated that beginning the deer season later with an extra five (5) weeks of crossbow hunting was one (1) of the compromises considered by the department. This proposal was also a compromise in that the initial plan was for a fully concurrent archery – crossbow season. Most hunters like to be out during the nice autumn weather.

In response to a question by Representative Frazier, Mr. Storm stated that, if implementation of these administrative regulations proved detrimental to wildlife resources, the department would amend requirements. For example, when Eastern Kentucky deer were struck with EHD, the department reduced hunting in that zone. Currently, over eighty (80) percent of counties had an abundance or overabundance of deer. Ms. Waldrop stated that the department had accurate data regarding deer populations in order to carefully manage the resource. Bag limits were especially effective ways to manage.

In response to a question by Co-Chair Hale, Mr. Clark stated that traditional bow hunting would not be harmed by implementation of this proposal because data in other states had not demonstrated a significant reduction in traditional bow hunting upon introduction or expansion of crossbow hunting opportunities. Ms. Waldrop stated that this proposal was biologically sustainable. Mr. Storm stated that the department was planning several deer-related working groups, including groups on regional Chronic Wasting Disease, land leasing, and baiting. All stakeholders were invited to participate.

Co-Chair West reiterated that the criteria to find an administrative regulation deficient was established in KRS 13A.030(2)(a). An administrative regulation that was not found deficient would continue through the process.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendment: to amend Section 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Hunting and Fishing

301 KAR 3:022. License, tag, and permit fees.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Office of the Commissioner

302 KAR 3:011. Repeal of 302 KAR 003:010. Clint Quarles, staff attorney, represented the department.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: General Administration

702 KAR 1:160. School health services. Todd Allen, deputy general counsel, represented the department.

A motion was made and seconded to approve the following amendments: 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.

Office of Learning Support Services

704 KAR 7:081. Repeal of 704 KAR 007:080.

PUBLIC PROTECTION CABINET: Kentucky Claims Commission: Tax Appeals

802 KAR 1:010. Tax appeal procedures. Tony Cotto, executive advisor, and Tim Cocanougher, executive director, represented the commission.

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 2:092. Disclosure of local government taxes and collection fee. Tony Cotto, executive advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 2:100. Disclosure of insurance premium surcharge.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs 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.

806 KAR 2:121. Repeal of 806 KAR 002:120 and 806 KAR 002:150.

Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:011. Repeal of 806 KAR 005:010 and 806 KAR 005:020.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:301. Repeal of 810 KAR 001:004, 810 KAR 001:005, 810 KAR 001:007, 810 KAR 001:008, 810 KAR 001:009, 810 KAR 001:010, 810 KAR 001:012, 810 KAR 001:014, 810 KAR 001:015, 810 KAR 001:016, 810 KAR 001:017, 810 KAR 001:018, 810 KAR 001:021, 810 KAR 001:024, 810 KAR 001:026, 810 KAR 001:027, 810 KAR 001:028, 810 KAR 001:029, 810 KAR 001:030, 810 KAR 001:037, 810 KAR 001:040, 810 KAR 001:050, 810 KAR 001:060, 810 KAR 001:070, 810 KAR 001:080, 810 KAR 001:090, 810 KAR 001:100, 810 KAR 001:110, 810 KAR 001:130, 810 KAR 001:140, 810 KAR 001:145, 810 KAR 001:150, and 810 KAR 001:300. Shawn Chapman, deputy general counsel; John Forgy, general counsel; Marc Guilfoil, executive director; and Dr. Mary Scollay, equine medical director, represented the commission. Joe Costa, president, The Red Mile, and Chauncey Morris, executive director, Kentucky Thoroughbred Association, appeared in support of these administrative regulations. Seth DePasquale, pharmacist; Peter Ecabert, general counsel, National Horsemen's Benevolent and Protective Association; Dr. Clara Fenger, veterinarian, North American Association of Racetrack Veterinarians; Marty Maline, executive director, Kentucky Horsemen's Benevolent and Protective Association; and Dr. Andrew Roberts, veterinarian, racetrack practitioners, appeared in opposition to these administrative regulations.

In response to a question by Co-Chair West, Mr. Guilfoil stated that this package of administrative regulations was in part a

response to Governor Bevin's Red Tape Reduction Initiative and in part a revision of requirements. This package reorganized and consolidated 112 administrative regulations into fifty-nine (59) administrative regulations. The consolidation made the requirements more user friendly and easier to update in the future. Requirements pertaining to medications were extensively vetted by the Rules Committee, an ad hoc committee of the commission, and were necessary for public and equine protection. The proposal was developed over a long period of time and was not a reaction to recent events in California. Stakeholders were fully engaged with the Rules Committee in the development of this package. The full Kentucky Horse Racing Commission considered these administrative regulations at the September 25, 2018 meeting, and the package was unanimously approved.

Mr. Costa stated that The Red Mile was in full support of these administrative regulations.

Mr. Morris stated that Kentucky Thoroughbred Association, which represented Keeneland and Churchill Downs, was in full support of these administrative regulations. In particular, the out-of-competition administrative regulation, 810 KAR 8:040, and the claiming races administrative regulations, 810 KAR 4:050 and 810 KAR 5:030, targeted the most vulnerable part of the horse population to ensure the safety of both horses and riders.

Mr. Maline stated that the Kentucky Horsemen's Benevolent and Protective Association was opposed to these administrative regulations because these provisions encouraged predatory claiming practices from outside interests that threatened racing in Kentucky. The new voided claiming rule offered a "warranty" to those who engaged in predatory claiming practices. There was an absence of data to support the purported welfare benefits of voided claims.

Mr. Ecabert stated that the National Horsemen's Benevolent and Protective Association was opposed to these administrative regulations. The subcommittee, on September 8, 2015, found deficient the requirements now established in 810 KAR 8:050, International medication protocol as condition of a race. Governor Beshear authorized the administrative regulation to become effective notwithstanding the finding of deficiency. The Attorney General on December 18, 2015, released the opinion that 810 KAR 8:050 was deficient because it was an unconstitutional delegation of governmental authority to private racetracks.

Dr. Fenger stated that racetrack practitioners were opposed to 810 KAR 8:010, Medication; testing procedures; prohibited practices, which established a definition for "therapeutic anabolic steroid" that did not include stanozolol, the most commonly used anabolic steroid for equine. Stanozolol was not used in actively racing horses and had been prohibited for use in actively racing horses for over ten (10) years. By omitting stanozolol from the definition, stanozolol would become prohibited in situations other than in actively racing horses. 810 KAR 8:010 also established a violation if any drug, medication, substance, or metabolic derivative foreign to the horse was found to be in the horse upon testing. Hay, oats, and water would constitute substances foreign to a horse. All horses carried within their bodies these, and other, types of foreign substances. Trace amounts of substances, such as pharmaceuticals, were present in the environment, including in the water that a horse might drink. Violations pertaining to horses that tested positive for trace amounts of a prohibited substances were very common. The requirement for a good faith investigation in these kinds of situations had been removed. Additionally, drugs not approved by FDA were prohibited from being used or possessed at a location under the jurisdiction of the commission. Many drugs, such as vitamins, were not FDA approved. Horse racing was a $4 billion business in Kentucky, and it was important not to jeopardize this industry. Medical labeling requirements were burdensome.

Dr. Fenger stated that racetrack practitioners were also opposed to 810 KAR 8:040, Out-of-competition testing, because certain substances would be banned for horses from birth until death. Horses would be prohibited from participating in clinical trials for drugs not yet approved by FDA, and compounded drugs would be banned.

Mr. DePasquale stated that, pursuant to 810 KAR 8:040, any compounded drug would be considered not approved by FDA; therefore, his practice as a compounding pharmacist would be ended.

Dr. Roberts stated that these administrative regulations should have been considered by the Equine Drug Committee. That committee would have discerned and corrected some of the errors in this package. The commission decided instead to send this package to ad hoc Rules Committee for consideration, probably because that committee was smaller and would comply with the commission's wishes. These requirements were very similar to those of California, which had recently experienced a spate of unfortunate incidents in the horse racing industry.

In response to questions by Co-Chair West, Mr. DePasquale stated that his pharmacy only sold compounded drugs; therefore, a ban on compounded drugs would effectively end his business.

In response to a question by Co-Chair West, Dr. Scollay stated that the voided claim rule was a welfare initiative and was not a "warranty" on a horse. The voided claim rule was intended as an incentive in the decision making of the horse's trainer so that, for the safety of horse and rider, a horse at risk might not be raced. Stanozolol was not prohibited for use in all circumstances; it was prohibited in proximity to racing. A horse that had been administered stanozolol would not race for at least six (6) months. The commission was not being inundated with post-race positive drug-testing results. The unequivocal assertion that trace amounts of substances did not have an effect on a horse was erroneous. There was insufficient clinical evidence to support that contention. The medication labeling rule had been in place at least since 2008 and should not prove burdensome. The commission recognized a legitimate need for compounded drugs and had procedures in place to accommodate that need. The out-of-competition provisions for eligibility were unchanged in this package. The commission had to date not tested a foal, a breeding stallion, or a horse in extremis. The focus was on horses actively training and racing. The commission did not feel that it would be appropriate that an actively training and racing horse be subject to clinical trials.

Mr. Forgy stated that the international protocol as a condition for a race remained unchanged in this package. The commission planned to continue to meet with stakeholders. Kentucky had not used the international protocol as a condition for a race because there had not been a racetrack that had opted to conduct a furosemide-free race. It was possible that the international protocol as a condition for a race would be repealed by the commission.

In response to questions by Co-Chair West, Mr. Forgy stated that non-FDA-approved substances were prohibited, except as approved by the commission. Dr. Scollay stated that FDA had guidelines for the use of compounded products. The commission would act in compliance with those guidelines on a per-substance basis.

In response to a question by Co-Chair West, Mr. Guilfoil agreed that the commission would continue to work with stakeholders to avoid any unintended consequences that might result from these administrative regulations. The commission intended to protect Kentucky's signature industry.

General

810 KAR 2:001. Definitions.

A motion was made and seconded to approve the following amendments: 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.

810 KAR 2:010. Racing commission and administrative staff.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION AND CONFORMITY paragraph and Sections 1 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:020. Thoroughbred and flat racing officials.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 to comply with the formatting and drafting requirements of KRS Chapter 13A and make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:030. Chemical dependency.

In response to questions by Co-Chair West, Mr. Chapman stated that the proposed oral amendment changed the word, "or," to the word, "and," in two (2) locations. This amendment applied to individuals who might be under the influence of intoxicants while engaged in activities for which they hold a license and while the individuals are on association grounds.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to clarify that individuals who were prohibited from being under the influence of intoxicants while engaged in activities for which they hold a license and while on association grounds. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:040. Stewards.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:050. Judges and Standardbred racing officials.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 4, 6, 7, 12, 13, 16, 19 through 21, and 24 through 26 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:060. Owners' authorized agents and jockey agents.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 5; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:070. Thoroughbred and other flat racing associations.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 6, 11, 16, 20 through 22, 27 through 29, and 34 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:080. Standardbred racing associations.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 7, 8, 11, 14 through 17, 19, 21, 22, 24 through 28, and 31 through 33 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Licensing

810 KAR 3:001. Definitions.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; 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.

810 KAR 3:010. Licensing of racing associations.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to establish when renewal applicants and applicants proposing substantial changes in ownership shall be charged an investigation fee and how the fee shall be paid; and (2) to amend Sections 1 through 5, 8, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 3:020. Licensing of racing participants.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph; Sections 2 through 6, 10, 11, 15, 22, 24; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 6 to include all of the licensure categories and fees listed in the application form; and (3) to amend Section 24 and the Licensing Application form to: (a) only require the last four (4) digits of the applicant's social security number; and (b) update payment provisions. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 3:030. Licensing totalizator companies.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 4, 7, 8, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to establish when renewal applicants and applicants proposing substantial changes in ownership shall be charged an investigation fee. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 3:040. Advance deposit account wagering.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to establish when renewal applicants and applicants proposing substantial changes in ownership shall be charged an investigation fee; and (2) to amend Sections 1 through 4, 8 through 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 3:050. Simulcast facilities.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Flat and Steeplechase Racing

810 KAR 4:001. Definitions.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the RELATES TO 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.

810 KAR 4:010. Horses.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3, 9 through 11, and 15 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 7 and to delete provisions on which the commission had not yet taken official action. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:020. Weights.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:030. Entries, subscriptions, and declarations.

A motion was made and seconded to approve the following amendments: to amend Sections 3 through 5, 8 through 11, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:040. Running of the race.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 6, 10, 12 through 15, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:050. Claiming races.

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.

810 KAR 4:060. Objections and complaints.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:070. Jockeys and apprentices.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3, 6 through 12, and 14 through 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:080. Steeplechase racing.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3 through 6, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:090. Owners.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:100. Trainers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Standardbred Racing

810 KAR 5:001. Definitions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:010. Registration and identification of horses.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2, 4, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:020. Eligibility and classification.

810 KAR 5:030. Claiming races.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to clarify that it is the “title” to the horse that shall be transferred back to the owner if a claim is voided; and (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 3 through 6, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:040. Farm, corporate, or stable name.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:050. Stakes and futurities.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:060. Entries and starters.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3, 5, 9, 10, 14, 17, 20 through 22, 25, 27, and 28 to comply with the drafting and formatting requirements of KRS Chapter 13A and for clarity. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:070. Running of the race.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 5, 8, 9, 14, 17, 18, 27, 30, 31, 34, 35, 43, and 49 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:080. Harness racing and county fairs.

A motion was made and seconded to approve the following amendments: to amend Sections 10, 15, and 18 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Pari-Mutuel Wagering

810 KAR 6:020. Calculation of payouts and distribution of pools.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, 9, 14, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Incentive and Development Funds

810 KAR 7:010. Backside improvement fund.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:020. Kentucky thoroughbred breeders’ incentive fund.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3 through 5, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to delete the requirement that horses earning awards at a Kentucky race track

through any component other than the claiming component during the same calendar year shall not be eligible for the Kentucky claiming component. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:030. Kentucky thoroughbred development fund.

810 KAR 7:040. Kentucky Standardbred development fund and Kentucky Standardbred breeders' incentive fund.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 5, 6, 11, and 22 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:070. Violations, discipline, disputes, and investigation.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and 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.

Medication Guidelines

810 KAR 8:010. Medication; testing procedures; prohibited practices.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3, 6, 10 through 12, 15, 17 through 21, and 23 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:030. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4 through 6, 10, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:040. Out-of-competition testing.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 5, 6, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:050. International medication protocol as condition of a race.

810 KAR 8:060. Post-race sampling and testing procedures.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 and 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.

Hearings and Appeals

810 KAR 9:010. Hearings, reviews and appeals.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 and 3 through 5; and 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.

Harness Racing

811 KAR 1:301. Repeal of 811 KAR 001:010, 811 KAR 001:015, 811 KAR 001:020, 811 KAR 001:025, 811 KAR 001:030, 811 KAR 001:035, 811 KAR 001:037, 811 KAR 001:040, 811 KAR 001:045, 811 KAR 001:050, 811 KAR 001:055, 811 KAR 001:060, 811 KAR 001:065, 811 KAR 001:070, 811 KAR 001:075, 811 KAR 001:080, 811 KAR 001:085, 811 KAR 001:90, 811 KAR 001:093, 811 KAR 001:095, 811 KAR 001:100, 811 KAR 001:105, 811 KAR 001:110, 811 KAR 001:115, 811 KAR 001:120, 811 KAR 001:130, 811 KAR 001:140, 811 KAR 001:150, 811 KAR 001:185, 811 KAR 001:215, 811 KAR 001:220, 811 KAR 001:225, 811 KAR 001:230, 811 KAR 001:240, 811 KAR 001:260, 811 KAR 001:280, 811 KAR 001:285, 811 KAR 001:290, and 811 KAR 001:300.

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:301. Repeal of 811 KAR 002:015, 811 KAR 002:020, 811 KAR 002:030, 811 KAR 002:035, 811 KAR 002:040, 811 KAR 002:045, 811 KAR 002:050, 811 KAR 002:056, 811 KAR 002:065, 811 KAR 002:070, 811 KAR 002:075, 811 KAR 002:080, 811 KAR 002:085811 KAR 002:090, 811 KAR 002:093, 811 KAR 002:096, 811 KAR 002:100, 811 KAR 002:105, 811 KAR 002:110, 811 KAR 002:130, 811 KAR 002:140, 811 KAR 002:150, 811 KAR 002:170, 811 KAR 002:180, 811 KAR 002:185, 811 KAR 002:190, 811 KAR 002:200, and 811 KAR 002:300.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Certificate of Need: Certificate of Need

900 KAR 6:075 & E. Certificate of need nonsubstantive review. Steve Davis, inspector general, and Matt Kleinert, deputy general counsel, represented the division. Michael Baker, attorney, Wyatt, Tarrant, and Combs, appeared in support of this administrative regulation. Michael Buchanon, judge executive, Warren County; Mark Guilfoyle, attorney, The Medical Center; and Wade Stone, executive vice president, Medical Center of Bowling Green, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Mr. Davis stated that this administrative regulation removed three (3) categories of services commensurate with House Bill 444 from the 2018 Regular Session of the General Assembly. This administrative regulation also provided an expedited review for a Class I ambulance provider applicant in a county without an ambulance provider or with only one (1) ambulance provider that is not publically owned or operated. A county with only one (1) ambulance provider and more than 50,000 citizens might be at risk were that one (1) ambulance provider to go out of business for some reason. It was important to establish opportunities for competition, especially in situations in which the ambulance provider was directly affiliated with a local hospital. There had been instances of an ambulance provider passing closer hospitals in order to deliver patients to an affiliated hospital. This administrative regulation also addressed cost control issues that were sometimes related to a single ambulance provider. The Certificate of Need process tended to be highly contentious. Often a holder of a Certificate of Need would go to significant expense in attempts to prevent additional Certificates of Need from being approved within the certificate holder's service area. The cabinet used summaries from a report created by the Pegasus Institute to study the policy ramifications of single providers and lack of competition. The cabinet recognized that there were limitations

and issues with the report.

In response to questions by Senator Raque Adams, Mr. Davis stated that, after this administrative regulation was initially filed in August 2018, a Certificate of Need applicant requested a hearing. That hearing was conducted by a hearing officer to determine if nonsubstantive review was appropriate. That hearing officer misinterpreted provisions of this administrative regulation; therefore, as part of the Statement of Consideration process, the cabinet further amended this administrative regulation to clarify the provisions that were misinterpreted by the hearing officer. Mr. Kleinert stated that it was inappropriate for the cabinet to comment on pending litigation. Senator Raque Adams stated that this subcommittee should not be asked to consider an administrative regulation with pending litigation. Mr. Kleinert stated that the litigation could not proceed unless this administrative regulation continued through the amendment process.

In response to questions by Co-Chair Hale, Mr. Davis stated that information related to patients being driven past closer hospitals in order to be transported to a hospital affiliated with the ambulance provider came from letters, reports, and public comments received during this administrative regulation's public comment period. There were reports that patients who requested to be transported to a specific hospital were in some cases transported to the facility affiliated with the ambulance provider notwithstanding the patient requests.

In response to a question by Co-Chair West, Mr. Baker stated that he represented the Certificate of Need applicant in the pending litigation. This did not represent a second administrative regulation. This administrative regulation had been amended in response to public comments during the normal administrative regulation process. This administrative regulation had been deferred from consideration by this subcommittee twice. Pending litigation should not prevent this administrative regulation from being considered by this subcommittee. This administrative regulation should not be found deficient by this administrative regulation because KRS 216B.095(3)(f) authorized the cabinet to promulgate an administrative regulation to establish additional categories of nonsubstantive review. Nonsubstantive review did not mean that a Certificate of Need was not required. Only four (4) states, including Kentucky, required a Certificate of Need for an ambulance provider. Statistics from the Kentucky Board of EMS demonstrated that in 2017 there were 5,585 patient transports in the provider area at issue. Of those, only 1,713 were transported to the nearer hospital; the remainder were transported to the hospital with which the ambulance provider was affiliated.

Senator Raque Adams stated that, separate from issues with specific providers, there were significant concerns regarding this administrative regulation. The Statement of Consideration explained that the Amended After Comments version was to clarify provisions in light of a recent misinterpretation by a hearing officer. This administrative regulation appeared to be a back channel to support a specific provider.

Judge Buchanon stated that the citizens and taxpayers of Warren County opposed this administrative regulation because it would have an immediate negative impact on the county's citizens and businesses. There was not a current health care crisis in Warren County; however, implementation of this administrative regulation might cause such a health care crisis, which would force local government to establish an ambulance provider tax. The report from the Pegasus Institute was widely disputed, and much of the data it contained was false or misleading. The current response time for the ambulance provider was better than the national average. The executive branch should not have the authority to impose a tax by administrative regulation to address a problem that didn't exist in Warren County. This was an effort to support a specific provider.

Mr. Stone stated that The Medical Center served South Central Kentucky for ninety-three (93) years. The Medical Center treated patients regardless of ability to pay. The affiliated ambulance provider had provided excellent service to the area for forty (40) years. The report from the Pegasus Institute was widely disputed. The ambulance provider respected and honored patient choice during patient transports; however, not all hospitals offered the same services. Patients were transported to the hospital that offered the services necessary. For example, Tristar Greenview hospital did not offer obstetrics and other services. Every ambulance provider transport complaint had been investigated, and none of the complaints had been substantiated in forty (40) years. The issue was that a Tennessee-based, for-profit hospital intended to enter the ambulance provider business in conjunction with a political favor. The subcommittee should find this administrative regulation deficient.

Mr. Guilfoyle stated that this was the second administrative regulation on this topic. There were two (2), not one (1), licensed ambulance providers in Warren County; therefore, this administrative regulation did not apply. The hearing officer determined that this administrative regulation did not apply because there were two (2) ambulance providers. The cabinet then amended this administrative regulation to override the hearing officer's determination. The cabinet was attempting to support the applicant through amending this administrative regulation. The pending litigation would be affected by the determination of this subcommittee. This was a blatant case of special legislation. The applicant filed litigation the day after the cabinet filed this emergency administrative regulation; however, LRC did not post the administrative regulation for five (5) days.

In response to a question by Co-Chair West, Mr. Davis stated that the cabinet did not have nefarious intent pertaining to this administrative regulation. The cabinet's goal was broad, and this administrative regulation was not intended only to address the Warren County situation in particular. This was done to address community concerns and to support competition, which tended to improve patient health care outcomes.

A motion was made by Senator Raque Adams to find this administrative regulation deficient based, not on policy toward any specific provider, but based on the process. Senator Clark seconded the motion and stated that, if the CON process needed to be changed, that needed to be done through a statutory, not a regulatory process. A roll call vote was taken. There being four (4) votes to find the administrative regulation deficient and three (3) votes against finding the administrative regulation deficient, the motion failed. Representative Frazier explained her no vote by stating that she wished to have the litigation in this matter continue through the court system. Co-Chair West explained his no vote by stating that this was one (1) of the hardest issues for this subcommittee, but the matter did not seem to fall within the criteria established in KRS 13A.030(2)(a) for a finding of deficiency.

Office of Health Data and Analytics: Division of Analytics: Data Reporting and Public Use Data Sets

900 KAR 7:030. Data reporting by health care providers. Robert Putt, executive director, represented the division.

Division of Health Benefit Exchange: Kentucky Health Benefit Exchange

900 KAR 10:021. Repeal of 900 KAR 010:010, 900 KAR 010:020, and 900 KAR 010:110. Robert Putt, executive director, represented the division.

Department for Public Health: Division of Maternal and Child Health: Kentucky Birth Surveillance Registry

902 KAR 19:010. Kentucky Birth Surveillance Registry. Julie Brooks, regulation coordinator, and Monica Clouse, program coordinator, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 and 5 to comply with the drafting of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:076. Repeal of 902 KAR 020:073. Stephanie

Brammer – Barnes, regulation coordinator, represented the division.

Division of Fiscal Management: Hospital Service Coverage and Reimbursement

907 KAR 10:820 & E. Disproportionate share hospital distributions. Jonathan Scott, regulatory and legislative liaison, represented the division.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 2, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Protection and Permanency: Child Welfare

922 KAR 1:140. Foster care and adoption permanency services. Laura Begin, regulation coordinator, and Elizabeth Caywood, deputy commissioner, represented the division.

922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.

922 KAR 1:400. Supporting services.

922 KAR 1:565. Service array for a relative or fictive kin caregiver.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Daycare

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

Other Business: Co-Chair West stated that the Administrative Regulation Review Subcommittee, which was a statutory committee, operated differently than most other legislative committees. Administrative regulations implemented statutes that had already passed through the legislature as bills. Rather than approving administrative regulations, this subcommittee reviewed, commented on, negotiated amendment to, and asked questions about administrative regulations as a component of legislative oversight.

The following administrative regulations were deferred or removed from the April 9, 2019, subcommittee agenda:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates

16 KAR 3:011. Repeal of 016 KAR 003:010, 016 KAR 003:020, 016 KAR 003:030, 016 KAR 003:040, and 016 KAR 003:050.

16 KAR 3:090. Certifications for advanced educational leaders.

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:120. Additional and emergency precinct officers.

FINANCE AND ADMINISTRATION: Teachers' Retirement System: General Rules

102 KAR 1:060. Refunds. Beau Barnes, deputy executive secretary of operations and general counsel, represented the system.

Mr. Barnes requested to defer consideration of this administrative regulation to the May subcommittee meeting. A motion was made and seconded to defer consideration of this administrative regulation. Without objection, and with agreement of the agency, the deferral request was approved.

FINANCE CABINET: Department for Facilities and Support Services: State-Owned Buildings and Grounds

200 KAR 3:020 & E. Use of State-owned facilities and grounds.

BOARDS AND COMMISSIONS: Board of Accountancy

201 KAR 1:290. Standards of practice.

201 KAR 1:310. Expungement of minor violation.

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:520. Allocation of block grant funding assistance for emergency medical services.

202 KAR 7:575. Posting of fee schedules of licensed ambulance providers.

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

601 KAR 2:030 & E. Ignition interlock.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: Academic Standards

704 KAR 8:060. Required academic standards for social studies.

LABOR CABINET: Department of Workplace Standards: Department of Workers' Claims

803 KAR 25:270 & E. Pharmaceutical formulary.

PUBLIC PROTECTION CABINET: Department of Insurance: Surplus Lines

806 KAR 10:030. Surplus lines reporting and tax payment structure.

Kentucky Department of Financial Institutions: Administration

808 KAR 1:180. Use of special restricted funds.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:111. Medically managed intensive inpatient withdrawal management.

Department of Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:022. Nursing facility services and intermediate care facility for individuals with an intellectual disability.

907 KAR 1:330. Hospice services.

907 KAR 1:340. Reimbursement for hospice services.

907 KAR 1:441. Repeal of 907 KAR 001:436.

907 KAR 1:755. Preadmission Screening and Resident Review Program.

Department of Medicaid Services: Division of Program Integrity

907 KAR 5:005. Health Insurance Premium Payment (HIPP) Program. Jonathan Scott, regulatory and legislative liaison, represented the division. Lili Lutgens, licensed attorney and licensed clinical social worker, Therapeutic Intervention Services, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Ms. Lutgens

stated that Therapeutic Intervention Services was opposed to this administrative regulation because several changes were needed. Many states had adopted the Health Insurance Premium Payment (HIPP) Program, which was a successful and important program. Most of these situations involved children who had been determined by a medical review panel to be permanently disabled and qualified for Medicaid but with parents who additionally had access to employer-provided healthcare. By making this program mandatory, recipients could be punished because failure to comply with narrow deadlines could cause a termination of Medicaid benefits. This was another instance that created uncertainty for Kentucky health care providers and, in some cases, disincentivized providers from participating in the Medicaid program. Individuals who participated in the supports for community living waiver program were especially at risk because they could additionally lose housing funding if their benefits were terminated. Billing private insurance before Medicaid was administratively complicated. Ms. Lutgens requested that the division work with stakeholders to correct some of these problems.

Mr. Scott requested to defer consideration of this administrative regulation to the May subcommittee meeting. A motion was made and seconded to defer consideration of this administrative regulation. Without objection, and with agreement of the agency, the deferral request was approved.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Behavioral Health: Substance Abuse

908 KAR 1:341. Repeal of 908 KAR 001:340.

908 KAR 1:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities.

908 KAR 1:372. Licensure of residential alcohol and other drug treatment entities.

908 KAR 1:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities.

Office for Children with Special Health Care Needs

911 KAR 1:010. Application to office for children with special health care needs clinical programs.

911 KAR 1:020. Billing and fees.

911 KAR 1:060. Office for children with special health care needs medical staff.

911 KAR 1:071. Repeal of 911 KAR 001:070 and 911 KAR 001:080.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability.

The subcommittee adjourned at 4:55 p.m. The next meeting of the subcommittee is tentatively scheduled for May 14, 2019, at 1 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(10), 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 45 of the *Administrative Register of Kentucky* from July 2018 through June 2019. 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 44 are those administrative regulations that were originally published in VOLUME 44 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2018 Kentucky Administrative Regulations Service* was published.

KRS Index **K - 20**

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 45 of the *Administrative Register of Kentucky*.

Certifications Index **K - 40**

The Certification Index lists of administrative regulations that have had certification letters filed during this VOLUME year. The certification process is established in KRS 13A.3104. If the certification letter states the administrative regulation shall be amended, the administrative body shall file an amendment to the regulation within 18 months of the date the certification letter was filed. If the certification letter states that the regulation shall remain in effect without amendment, the last effective date of the regulation is changed to the date the regulations compiler received the letter.

Technical Amendment Index **K - 57**

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered since being published in the 2018 *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). Because 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 - 58**

The Subject Index is a general index of administrative regulations published in VOLUME 45 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

Regulation Number	44 Ky.R. Page No.	Effective Date

VOLUME 44

SYMBOL KEY:

* Statement of Consideration not filed by deadline
** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
*** Withdrawn before being printed in Register
IJC Interim Joint Committee
(r) Repealer regulation: KRS 13A.310(3)-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.)

201 KAR 12:082E	2303	4-13-2018
Replaced	2364	8-6-2018
201 KAR 22:020E	2180	3-14-2018
Replaced	2486	6-20-2018
201 KAR 22:040E	2182	3-14-2018
Replaced	2487	6-20-2018
201 KAR 22:070E	2184	3-14-2018
Replaced	2487	6-20-2018
921 KAR 2:015E	1799	12-28-2017
Replaced	1899	6-20-2018
922 KAR 2:090E	1916	2-14-2018
Replaced	2513	7-18-2018
922 KAR 2:100E	1925	2-14-2018
Replaced	2522	7-18-2018
922 KAR 2:111E	1936	2-14-2018
Expires		8-13-2018
922 KAR 2:120E	1937	2-14-2018
Replaced	2533	7-18-2018
922 KAR 2:171E*(r)*	2306	4-13-2018
Expires		10-10-2018
922 KAR 2:180E	1946	2-14-2018
Replaced	2138	7-18-2018
922 KAR 2:190E	1952	2-14-2018
Replaced	2144	7-18-2018
922 KAR 2:270E	2308	4-13-2018
Replaced	2459	7-18-2018

ORDINARY ADMINISTRATIVE REGULATIONS:

13 KAR 3:060	2702	8-31-2018
16 KAR 2:010		
Amended	1584	
Am Comments	2033	See 45 Ky.R.
16 KAR 5:030		
Amended	1589	
Am Comments	2039	See 45 Ky.R.
101 KAR 1:325		
Amended	2542	8-31-2018
103 KAR 16:360		
Amended	1094	
Withdrawn by agency		12-8-2017
103 KAR 26:120		
As Amended	1494	2-2-2018
103 KAR 41:120		
Amended	1112	
Withdrawn by agency		12-8-2017
201 KAR 3:005		
Repealed	2703	8-31-2018
201 KAR 3:006*(r)*	2703	8-31-2018
201 KAR 3:025		
Repealed	2703	8-31-2018
201 KAR 3:035		
Repealed	2703	8-31-2018
201 KAR 3:045		
Amended	2544	See 45 Ky.R.
201 KAR 3:055		
Repealed	2703	8-31-2018
201 KAR 3:065		
Repealed	2703	8-31-2018
201 KAR 3:090		
Amended	2546	8-24-2018
201 KAR 3:100	2705	8-31-2018
201 KAR 5:090		
Amended	2548	See 45 Ky.R.
201 KAR 5:130		
Amended	2549	8-31-2018
201 KAR 6:020		
Amended	2552	8-31-2018
201 KAR 6:050		
Amended	2554	See 45 Ky.R.
201 KAR 9:021		
Amended	2361	7-18-2018
201 KAR 9:031		
Amended	2363	
As Amended		See 45 Ky.R.
201 KAR 9:310		
Amended	1871	5-4-2018
201 KAR 9:480	1725	
As Amended	1970	3-15-2018
201 KAR 12:010		
Amended	2556	See 45 Ky.R.
201 KAR 12:030		
Amended	2557	See 45 Ky.R.
201 KAR 12:082		
Amended	2364	
As Amended		See 45 Ky.R.
201 KAR 12:140		
Amended	2561	See 45 Ky.R.
201 KAR 12:190		
Amended	2563	See 45 Ky.R.
201 KAR 12:230		
Amended	2565	See 45 Ky.R.
201 KAR 12:260		
Amended	2368	
As Amended		See 45 Ky.R.
201 KAR 14:180		
Amended	2566	8-24-2018
201 KAR 20:056		
Amended	2237	
As Amended	2473	6-20-2018
201 KAR 20:070		
Amended	2239	
As Amended	2475	6-20-2018
201 KAR 20:110		
Amended	2241	
As Amended	2476	6-20-2018
201 KAR 20:225		
Amended	2244	
As Amended	2477	6-20-2018
201 KAR 20:370		
Amended	2246	
As Amended	2478	6-20-2018
201 KAR 20:411		
Amended	2247	
As Amended	2479	6-20-2018
201 KAR 20:470		
Amended	2250	
As Amended	2481	6-20-2018
201 KAR 22:020		

Regulation Number	44 Ky.R. Page No.	Effective Date
Amended	2255	
As Amended	2486	6-20-2018
201 KAR 22:040		
Amended	2257	
As Amended	2487	6-20-2018
201 KAR 22:070		
Amended	2259	
As Amended	2487	6-20-2018
201 KAR 25:090		
Amended	1623	
Withdrawn by agency		10-26-2018
201 KAR 34:060		
Amended	2568	See 45 Ky.R.
201 KAR 41:100		
Amended	2572	See 45 Ky.R.
301 KAR 1:130		
Amended	2574	8-6-2018
301 KAR 2:049		
Amended	2260	
As Amended	2488	6-7-2018
301 KAR 2:172		
Amended	2370	
As Amended		See 45 Ky.R.
301 KAR 2:176		
Amended	2576	10-5-2018
301 KAR 2:221		
Amended	2374	
As Amended		See 45 Ky.R.
301 KAR 2:222		
Amended	2376	
As Amended		See 45 Ky.R.
301 KAR 2:228		
Amended	2380	See 45 Ky.R.
302 KAR 16:020		
Amended	2265	
As Amended	2492	7-6-2018
302 KAR 16:080		
Repealed	2283	7-6-2018
302 KAR 16:081*(r)*	2283	7-6-2018
302 KAR 16:091		
Amended	2267	
As Amended	2493	7-6-2018
302 KAR 50:050	1768	
Amended	2383	7-20-2018
401 KAR 5:002		
Amended	2578	See 45 Ky.R.
401 KAR 5:005		
Amended	2585	See 45 Ky.R.
401 KAR 5:006		
Amended	2598	See 45 Ky.R.
401 KAR 5:015		
Amended	2602	See 45 Ky.R.
401 KAR 5:035		
Repealed	2707	11-1-2018
401 KAR 5:037		
Amended	2604	See 45 Ky.R.
401 KAR 5:039*(r)*	2707	11-1-2018
401 KAR 5:045		
Amended	2610	See 45 Ky.R.
401 KAR 5:050		
Amended	2612	11-1-2018
401 KAR 5:052		
Amended	2615	11-1-2018
401 KAR 5:055		
Amended	2616	See 45 Ky.R.
401 KAR 5:057		
Repealed	2707	11-1-2018
401 KAR 5:060		
Amended	2620	11-1-2018
401 KAR 5:065		
Amended	2623	11-1-2018
401 KAR 5:070		
Repealed	2707	11-1-2018
401 KAR 5:075		
Amended	2625	See 45 Ky.R.
401 KAR 5:080		
Amended	2628	11-1-2018
401 KAR 5:300		
Repealed	2707	11-1-2018
401 KAR 5:320		
Amended	2631	See 45 Ky.R.
401 KAR 51:240	2284	
Am Comments	2505	7-5-2018
401 KAR 51:250	2286	
Am Comments	2507	7-5-2018
401 KAR 51:260	2288	
Am Comments	2509	7-5-2018
405 KAR 1:005		
Repealed	2708	10-5-2018
405 KAR 1:007		
Repealed	2708	10-5-2018
405 KAR 1:010		
Repealed	2708	10-5-2018
405 KAR 1:011*(r)*	2708	10-5-2018
405 KAR 1:015		
Repealed	2708	10-5-2018
405 KAR 1:020		
Repealed	2708	10-5-2018
405 KAR 1:030		
Repealed	2708	10-5-2018
405 KAR 1:040		
Repealed	2708	10-5-2018
405 KAR 1:050		
Repealed	2708	10-5-2018
405 KAR 1:051		
Repealed	2708	10-5-2018
405 KAR 1:060		
Repealed	2708	10-5-2018
405 KAR 1:070		
Repealed	2708	10-5-2018
405 KAR 1:080		
Repealed	2708	10-5-2018
405 KAR 1:090		
Repealed	2708	10-5-2018
405 KAR 1:100		
Repealed	2708	10-5-2018
405 KAR 1:110		
Repealed	2708	10-5-2018
405 KAR 1:120		
Repealed	2708	10-5-2018
405 KAR 1:130		
Repealed	2708	10-5-2018
405 KAR 1:130		
Repealed	2708	10-5-2018
405 KAR 1:141		
Repealed	2708	10-5-2018
405 KAR 1:150		
Repealed	2708	10-5-2018
405 KAR 1:160		
Repealed	2708	10-5-2018
405 KAR 1:170		
Repealed	2708	10-5-2018
405 KAR 1:180		
Repealed	2708	10-5-2018
405 KAR 1:190		
Repealed	2708	10-5-2018
405 KAR 1:200		
Repealed	2708	10-5-2018
405 KAR 1:210		
Repealed	2708	10-5-2018
405 KAR 1:220		
Repealed	2708	10-5-2018

Regulation Number	44 Ky.R. Page No.	Effective Date
405 KAR 1:230		
Repealed	2708	10-5-2018
405 KAR 1:240		
Repealed	2708	10-5-2018
405 KAR 1:250		
Repealed	2708	10-5-2018
405 KAR 1:260		
Repealed	2708	10-5-2018
405 KAR 3:005		
Repealed	2709	10-5-2018
405 KAR 3:007		
Repealed	2709	10-5-2018
405 KAR 3:010		
Repealed	2709	10-5-2018
405 KAR 3:011*(r)*	2709	10-5-2018
405 KAR 3:015		
Repealed	2709	10-5-2018
405 KAR 3:020		
Repealed	2709	10-5-2018
405 KAR 3:030		
Repealed	2709	10-5-2018
405 KAR 3:040		
Repealed	2709	10-5-2018
405 KAR 3:050		
Repealed	2709	10-5-2018
405 KAR 3:060		
Repealed	2709	10-5-2018
405 KAR 3:070		
Repealed	2709	10-5-2018
405 KAR 3:080		
Repealed	2709	10-5-2018
405 KAR 3:090		
Repealed	2709	10-5-2018
405 KAR 3:100		
Repealed	2709	10-5-2018
405 KAR 3:111		
Repealed	2709	10-5-2018
405 KAR 3:120		
Repealed	2709	10-5-2018
405 KAR 3:130		
Repealed	2709	10-5-2018
405 KAR 3:140		
Repealed	2709	10-5-2018
405 KAR 3:150		
Repealed	2709	10-5-2018
405 KAR 3:160		
Repealed	2709	10-5-2018
405 KAR 3:170		
Repealed	2709	10-5-2018
405 KAR 3:180		
Repealed	2709	10-5-2018
405 KAR 3:190		
Repealed	2709	10-5-2018
501 KAR 6:030		
Amended	2269	
Am Comments	2511	8-6-2018
501 KAR 6:070		
Amended	2635	See 45 Ky.R.
501 KAR 6:170		
Amended	2270	7-6-2018
501 KAR 6:270		
Amended	2097	
As Amended	2494	7-6-2018
501 KAR 16:290		
Amended	1884	
Am Comments	2337	
As Amended	2494	7-6-2018
501 KAR 16:300		
Amended	1887	
Am Comments	2339	
As Amended	2496	7-6-2018
501 KAR 16:310		
Amended	1891	
Am Comments	2343	
As Amended	2498	7-6-2018
501 KAR 16:330		
Amended	1893	
Am Comments	2345	
As Amended	2499	7-6-2018
501 KAR 16:340		
Amended	1897	
Am Comments	2349	7-6-2018
503 KAR 5:090		
Amended	2637	10-5-2018
505 KAR 1:120		
Amended	2384	
As Amended		See 45 Ky.R.
505 KAR 1:140		
Amended	2386	See 45 Ky.R.
600 KAR 4:010		
Amended	2272	
As Amended	2501	7-6-2018
601 KAR 2:030		
Amended	1651	
Withdrawn by agency		6-13-2018
603 KAR 2:015		
Amended	2640	
Withdrawn by agency		7-24-2018
703 KAR 5:190		
Repealed	2157	8-6-2018
703 KAR 5:191*(r)*	2157	8-6-2018
703 KAR 5:225		
Amended	2101	
As Amended		See 45 Ky.R.
703 KAR 5:260		
Repealed	2157	6-17-2018
703 KAR 5:280	2158	
Am Comments	2351	
As Amended		See 45 Ky.R.
704 KAR 7:090		
Amended	1658	
As Amended	2015	4-6-2018
735 KAR 1:010		
Amended	2388	
As Amended		See 45 Ky.R.
735 KAR 1:020		
Amended	2391	
As Amended		See 45 Ky.R.
735 KAR 2:010		
Amended	2394	
As Amended		See 45 Ky.R.
735 KAR 2:020		
Amended	2396	
As Amended		See 45 Ky.R.
735 KAR 2:030		
Amended	2398	
As Amended		See 45 Ky.R.
735 KAR 2:040		
Amended	2399	
As Amended		See 45 Ky.R.
735 KAR 2:050		
Amended	2401	
As Amended		See 45 Ky.R.
735 KAR 2:060		
Amended	2403	
As Amended		See 45 Ky.R.
804 KAR 9:010		
Repealed	1774	7-6-2018
804 KAR 9:040		
Repealed	1774	7-6-2018
804 KAR 9:050		
Repealed	1774	7-6-2018

Regulation Number	44 Ky.R. Page No.	Effective Date
804 KAR 9:051*(r)*	1774	7-6-2018
807 KAR 5:022		
Amended	2405	See 45 Ky.R.
807 KAR 5:026		
Amended	2436	See 45 Ky.R.
810 KAR 1:111*(r)*	2711	
Withdrawn		7-18-2018
810 KAR 8:040	2712	
Withdrawn		7-18-2018
811 KAR 1:241*(r)*	2717	
Withdrawn		7-18-2018
811 KAR 2:151*(r)*	2718	
Withdrawn		7-18-2018
815 KAR 6:001		
Recodified as 831 KAR 2:001		4-18-2019
815 KAR 6:010		
Recodified as 831 KAR 2:020		4-18-2019
815 KAR 6:030		
Recodified as 831 KAR 2:030		4-18-2019
815 KAR 6:040		
Recodified as 831 KAR 2:040		4-18-2019
815 KAR 7:110		
Amended	2439	See 45 Ky.R.
815 KAR 7:120		
Amended	2442	See 45 Ky.R.
815 KAR 7:125		
Amended	2445	See 45 Ky.R.
815 KAR 8:007		
Repealed	2458	8-22-2018
815 KAR 8:011*(r)*	2458	8-22-2018
815 KAR 8:045		
Repealed	2458	8-22-2018
815 KAR 8:070		
Amended	2446	See 45 Ky.R.
815 KAR 8:080		
Amended	2449	See 45 Ky.R.
815 KAR 8:100		
Amended	2451	See 45 Ky.R.
820 KAR 1:001		
Amended	2646	See 45 Ky.R.
820 KAR 1:005		
Amended	2650	See 45 Ky.R.
820 KAR 1:010		
Repealed	2720	1-4-2019
820 KAR 1:011*(r)*	2720	1-4-2019
820 KAR 1:015		
Repealed	2720	1-4-2019
820 KAR 1:016		
Repealed	2720	1-4-2019
820 KAR 1:025		
Amended	2654	See 45 Ky.R.
820 KAR 1:026		
Repealed	2720	1-4-2019
820 KAR 1:028		
Repealed	2720	1-4-2019
820 KAR 1:029		
Repealed	2720	1-4-2019
820 KAR 1:032		
Amended	2656	See 45 Ky.R.
820 KAR 1:033		
Repealed	2720	1-4-2019
820 KAR 1:034		
Repealed	2720	1-4-2019
820 KAR 1:036		
Repealed	2720	1-4-2019
820 KAR 1:042		
Amended	2670	See 45 Ky.R.
820 KAR 1:044		
Repealed	2720	1-4-2019
820 KAR 1:046		
Repealed	2720	1-4-2019
820 KAR 1:050		
Amended	2678	See 45 Ky.R.
820 KAR 1:055		
Amended	2681	See 45 Ky.R.
820 KAR 1:056		
Repealed	2720	1-4-2019
820 KAR 1:057		
Amended	2683	See 45 Ky.R.
820 KAR 1:058		
Repealed	2720	1-4-2019
820 KAR 1:060		
Amended	2690	See 45 Ky.R.
820 KAR 1:100		
Repealed	2720	1-4-2019
820 KAR 1:110		
Repealed	2720	1-4-2019
820 KAR 1:120		
Repealed	2720	1-4-2019
820 KAR 1:125		
Amended	2691	1-4-2019
820 KAR 1:130		
Amended	2693	See 45 Ky.R.
820 KAR 1:135	2721	See 45 Ky.R.
831 KAR 2:001		
Recodified from 815 KAR 6:001		4-18-2019
831 KAR 2:020		
Recodified from 815 KAR 6:010		4-18-2019
831 KAR 2:030		
Recodified from 815 KAR 6:030		4-18-2019
831 KAR 2:040		
Recodified from 815 KAR 6:040		4-18-2019
902 KAR 2:055		
Amended	2695	See 45 Ky.R.
902 KAR 10:040		
Amended	2277	See 45 Ky.R.
902 KAR 20:016		
Amended	1415	
Am Comments	2054	See 45 Ky.R.
902 KAR 20:058		
Amended	1714	5-4-2018
906 KAR 1:200		
Amended	2454	
As Amended		See 45 Ky.R.
910 KAR 2:030		
Amended	2698	
As Amended		See 45 Ky.R.
910 KAR 2:050		
Repealed	2723	9-19-2018
910 KAR 2:052*(r)*	2723	9-19-2018
921 KAR 2:015		
Amended	1899	6-20-2018
922 KAR 2:090		
Amended	2109	
Am Comments	2513	7-18-2018
922 KAR 2:100		
Amended	2118	
Am Comments	2522	7-18-2018
922 KAR 2:110		
Repealed	1963	2-14-2018
922 KAR 2:120		
Amended	2129	
Am Comments	2533	
As Amended		See 45 Ky.R.
922 KAR 2:170		
Repealed	2306	4-13-2018
922 KAR 2:180		
Amended	2138	
As Amended		See 45 Ky.R.
922 KAR 2:190		
Amended	2144	
As Amended		See 45 Ky.R.

Regulation Number	44 Ky.R. Page No.	Effective Date
922 KAR 2:210		
Repealed	2306	4-13-2018
922 KAR 2:270	2459	
As Amended		See 45 Ky.R.

VOLUME 45

SYMBOL KEY:

* Statement of Consideration not filed by deadline
** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
*** Withdrawn before being printed in Register
IJC Interim Joint Committee
(r) Repealer regulation: KRS 13A.310(3)-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.
! Although the Interim Joint Committee on Health and Welfare and Family Services met on October 17, 2018, a quorum was not present; therefore, pursuant to KRS 13A.330(1), these regulations went into effect at the end of the 30-day review period on November 2, 2018.

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 1:015E	234	7-11-2018
Replaced	933	10-24-2018
9 KAR 1:030E	235	7-11-2018
Replaced	933	10-24-2018
31 KAR 3:010E	7	5-22-2018
Replaced	638	10-5-2018
31 KAR 4:100E	236	6-21-2018
Replaced	1512	1-4-2019
31 KAR 4:120E	239	6-21-2018
Withdrawn	*	10-15-2018
32 KAR 1:030E	906	8-31-2018
Replaced	2055	2-1-2019
32 KAR 1:050E	2301	1-14-2019
32 KAR 1:070E	2302	1-14-2019
40 KAR 2:345E	241	7-2-2018
Replaced	946	11-2-2018
101 KAR 2:210E	908	9-14-2018
Replaced	1055	1-4-2019
103 KAR 18:050E	910	9-10-2018
Replaced	1518	1-4-2019
105 KAR 1:147E	1174	10-5-2018
Replaced	2071	2-1-2019
200 KAR 3:020E	2304	1-4-2019
301 KAR 1:152E	2039	11-19-2018
Replaced	2165	4-5-2019
301 KAR 2:095E	2308	12-17-2018
301 KAR 2:169E	912	8-24-2018
Withdrawn		10-5-2018
301 KAR 2:225E	614	7-20-2018
Replaced	752	12-7-2018
400 KAR 1:001E	243	7-13-2018
Replaced	431	10-5-2018
400 KAR 1:040E	245	7-13-2018
Replaced	958	10-5-2018
400 KAR 1:090E	251	7-13-2018
Replaced	963	10-5-2018
400 KAR 1:100E	260	7-13-2018
Replaced	970	10-5-2018
400 KAR 1:110E	265	7-13-2018
Replaced	974	10-5-2018
500 KAR 15:010E	3011	4-5-2019
501 KAR 5:020E	617	7-19-2018
Replaced	1524	1-4-2019
503 KAR 1:110E	274	6-27-2018
Replaced	1047	12-7-2018
601 KAR 2:030E	9	6-13-2018
Withdrawn by agency		1-8-2019
Resubmitted	2310	1-8-2019
787 KAR 1:010E	915	9-13-2018
Replaced	1528	1-4-2019
803 KAR 25:089E	15	6-11-2018
Replaced	1193	12-7-2018
803 KAR 25:270E	2316	12-27-2018
805 KAR 1:210E	277	7-13-2018
Replaced	560	10-5-2018
895 KAR 1:001E	279	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:010E	282	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:015E	285	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:020E	288	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:025E	290	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:030E	292	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:035E	295	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:040E	297	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:045E	299	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:050E	301	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:055E	303	6-29-2018
Withdrawn by agency		7-2-2018
900 KAR 5:020E	305	7-13-2018
Replaced	1622	12-12-2018
900 KAR 6:075E	1176	9-25-2018
900 KAR 11:010E	917	9-13-2018
Replaced	1111	12-12-2018
902 KAR 20:008E	307	7-13-2018
Replaced	474	! 11-2-2018
902 KAR 20:401E*(r)*	312	7-13-2018
Expired		1-9-2019
902 KAR 55:011E*(r)*	313	7-13-2018
Expired		1-9-2019
906 KAR 1:071E*(r)*	315	7-13-2018
Expired		1-9-2019
907 KAR 1:025E	922	9-13-2018
Replaced	1673	1-4-2019
907 KAR 1:560E	1493	11-1-2018
907 KAR 1:563E	1497	11-1-2018
907 KAR 1:604E	2319	12-28-2018
Withdrawn	*	3-15-2019
Resubmitted	3015	3-15-2019
907 KAR 1:642E	316	7-2-2018
Withdrawn by agency		7-27-2018
907 KAR 10:820E	2041	11-30-2018
921 KAR 2:015E	2322	12-28-2018
921 KAR 2:055E	1501	11-1-2018
921 KAR 3:060E	1505	11-1-2018
921 KAR 3:070E	1507	11-1-2018
922 KAR 1:100E	928	9-13-2018
Replaced	2357	2-21-2019
922 KAR 1:310E	3019	4-1-2019

Regulation Number	43 Ky.R. Page No.	Effective Date
922 KAR 1:350E	3033	4-1-2019
922 KAR 1:495E	3042	4-1-2019
922 KAR 2:160E	2045	11-30-2018
922 KAR 1:360E	619	8-1-2018
Replaced	2106	1-23-2019
922 KAR 1:560E	318	7-13-2018
Replaced	2284	12-12-2018

ORDINARY ADMINISTRATIVE REGULATIONS

Regulation Number	43 Ky.R. Page No.	Effective Date
9 KAR 1:015		
Amended	376	
As Amended	933	10-24-2018
9 KAR 1:030		
Amended	377	
As Amended	933	10-24-2018
11 KAR 4:080		
Amended	1703	
As Amended	2329	3-8-2019
11 KAR 5:045		
Amended		
11 KAR 5:145		
Amended	105	
As Amended	626	10-5-2018
Amended	3239	
11 KAR 15:010		
Amended	106	
As Amended	626	10-5-2018
11 KAR 15:110	207	
As Amended	627	10-5-2018
12 KAR 2:006		
Amended	380	10-10-2018
12 KAR 2:011		
Amended	381	10-10-2018
12 KAR 2:016		
Amended	382	10-10-2018
As Amended	935	
12 KAR 2:017		
Amended	384	10-10-2018
12 KAR 2:018		
Amended	385	10-10-2018
As Amended	935	
12 KAR 2:021		
Amended	389	10-10-2018
As Amended	938	
12 KAR 2:026		
Amended	391	10-10-2018
As Amended	940	
12 KAR 2:031		
Amended	392	10-10-2018
As Amended	940	
12 KAR 2:036		
Amended	394	10-10-2018
As Amended	941	
12 KAR 2:041		
Amended	395	10-10-2018
12 KAR 2:046		
Amended	396	10-10-2018
12 KAR 2:051		
Amended	398	10-10-2018
12 KAR 2:056		
Amended	399	10-11-2018
As Amended	941	
12 KAR 2:061		
Amended	400	10-10-2018
12 KAR 2:066		
Amended	401	
As Amended	942	10-10-2018
12 KAR 3:007		
Amended	108	
As Amended	628	9-28-2018
12 KAR 3:012		
Amended	109	
As Amended	628	9-28-2018
12 KAR 3:017		
Amended	112	
As Amended	630	9-28-2018
12 KAR 3:022		
Amended	114	
As Amended	631	9-28-2018
12 KAR 3:027		
Amended	116	
As Amended	633	9-28-2018
12 KAR 3:028	208	
As Amended	634	9-28-2018
12 KAR 3:032		
Amended	118	
As Amended	635	9-28-2018
12 KAR 3:037		
Amended	119	
As Amended	635	9-28-2018
12 KAR 3:039	210	
As Amended	636	9-28-2018
12 KAR 3:042		
Amended	120	
As Amended	637	9-28-2018
13 KAR 2:020		
Amended	403	
As Amended	942	11-2-2018
16 KAR 2:010		See 44 Ky.R.
As Amended	321	8-31-2018
16 KAR 2:100		
Amended	1704	
As Amended	2329	3-8-2019
16 KAR 2:210	1850	
As Amended	2330	3-8-2019
16 KAR 3:011*(r)*	2801	
16 KAR 3:090	2250	
16 KAR 5:030		See 44 Ky.R.
As Amended	326	8-31-2018
16 KAR 8:030		
Amended	3240	
16 KAR 9:040		
Amended	1706	
As Amended	2331	3-8-2019
31 KAR 3:010		
Amended	122	
As Amended	638	10-5-2018
31 KAR 4:100		
Amended	124	
Amended	408	
As Amended	1512	1-4-2019
31 KAR 4:120		
Amended	125	
Withdrawn by agency		6-20-2018
Amended	409	
Withdrawn	*	10-15-2018
Amended	2152	
32 KAR 1:030		
Amended	1052	
As Amended	2055	
32 KAR 1:050		
Amended	2401	
As Amended	2345	
32 KAR 1:070		
Amended	2402	
40 KAR 2:345	557	
As Amended	946	11-2-2018
45 KAR 1:050		
Withdrawn by agency		8-23-2018
Amended	1053	

Regulation Number	43 Ky.R. Page No.	Effective Date
As Amended	1512	1-4-2019
101 KAR 2:020		
Amended	127	10-5-2018
101 KAR 2:034		
Amended	139	
As Amended	639	10-5-2018
Amended	2955	
101 KAR 2:076		
Amended	133	10-5-2018
101 KAR 2:095		
Amended	135	
As Amended	643	10-5-2018
101 KAR 2:210		
Amended	1055	1-4-2019
101 KAR 3:045		
Amended	139	
As Amended	646	10-5-2018
Amended	2960	
101 KAR 3:050		
Amended	144	10-5-2018
102 KAR 1:060		
Amended	2404	
102 KAR 1:163	2526	
As Amended	3047	
102 KAR 1:168	2527	
As Amended	3047	
102 KAR 1:320		
Amended	2406	
As Amended	3048	
103 KAR 1:040		
Amended	1297	2-1-2019
103 KAR 1:130		
Amended	1299	2-1-2019
103 KAR 15:040		
Repealed	859	12-7-2018
103 KAR 15:041*(r)*	859	12-7-2018
103 KAR 15:050		
Amended	1057	
As Amended	1513	1-4-2019
103 KAR 15:060		
Amended	1059	
As Amended	1514	1-4-2019
103 KAR 15:090		
Repealed	859	12-7-2018
103 KAR 15:110		
Amended	727	
As Amended	1180	12-7-2018
103 KAR 15:120		
Amended	728	
As Amended	1180	12-7-2018
103 KAR 15:140		
Amended	730	
As Amended	1181	12-7-2018
103 KAR 15:180		
Amended	1060	
As Amended	1514	1-4-2019
103 KAR 15:195		
Amended	1062	1-4-2019
103 KAR 16:010		
Repealed	860	12-7-2018
103 KAR 16:011*(r)*	860	12-7-2018
103 KAR 16:060		
Amended	1301	
As Amended	2055	2-1-2019
103 KAR 16:090		
Amended	1305	2-1-2019
As Amended	2059	
103 KAR 16:151*(r)*	1851	
As Amended	2845	
103 KAR 16:210		
Repealed	860	12-7-2018
103 KAR 16:230		
Amended	1307	2-1-2019
As Amended	2059	
103 KAR 16:240		
Amended	1309	
As Amended	2060	2-1-2019
103 KAR 16:250		
Amended	2153	
As Amended	2571	4-5-2019
103 KAR 16:270		
Amended	1708	
Am Comment	2688	
As Amended	2845	
103 KAR 16:290		
Amended	1312	
As Amended	2063	2-1-2019
103 KAR 16:310		
Repealed	860	12-7-2018
103 KAR 16:330		
Amended	1314	
As Amended	2064	2-1-2019
103 KAR 16:340		
Amended	1316	
As Amended	2065	2-1-2019
103 KAR 16:352		
Amended	732	
103 KAR 16:360		
Repealed	860	12-7-2018
103 KAR 16:380		
Repealed	1152	1-4-2019
103 KAR 16:381*(r)*	1152	1-4-2019
103 KAR 17:010		
Amended	1066	
As Amended	1516	1-4-2019
103 KAR 17:020		
Amended	1068	
As Amended	1516	1-4-2019
103 KAR 17:041		
Repealed	861	12-7-2018
103 KAR 17:042*(r)*	861	12-7-2018
103 KAR 17:060		
Amended	1069	
As Amended	1517	1-4-2019
103 KAR 17:100		
Amended	734	
As Amended	1182	12-7-2018
103 KAR 17:130		
Amended	735	
As Amended	1183	12-7-2018
103 KAR 17:140		
Amended	736	
As Amended	1183	12-7-2018
103 KAR 18:050		
Amended	1070	
As Amended	1518	1-4-2019
103 KAR 18:080		
Repealed	1153	1-4-2019
103 KAR 18:081*(r)*	1153	1-4-2019
103 KAR 18:160		
Repealed	1153	1-4-2019
103 KAR 18:110		
Amended	1073	1-4-2019
103 KAR 18:120		
Amended	1074	
As Amended	1519	1-4-2019
103 KAR 18:150		
Amended	1075	
As Amended	1520	1-4-2019
103 KAR 18:180		
Amended	738	12-7-2018
103 KAR 18:190		

Regulation Number	43 Ky.R. Page No.	Effective Date
Repealed	862	12-7-2018
103 KAR 18:191*(r)*	862	12-7-2018
103 KAR 18:200		
Repealed	862	12-7-2018
103 KAR 18:210		
Repealed	862	12-7-2018
103 KAR 18:220		
Repealed	862	12-7-2018
103 KAR 19:010		
Amended	1077	
As Amended	2066	
105 KAR 1:145		
Amended	1318	
As Amended	2066	2-1-2019
105 KAR 1:147	1457	
As Amended	2071	
106 KAR 1:081		
Amended	2743	
As Amended	3050	
106 KAR 1:091		
Amended	2745	
As Amended	3052	
106 KAR 1:101		
Amended	2750	
106 KAR 1:111		
Amended	2751	
As Amended	3055	
106 KAR 1:121		
Amended	2753	
As Amended	3056	
200 KAR 3:020	2528	
Am Comments	3190	
200 KAR 30:010		
Repealed	558	11-2-2018
200 KAR 30:011*(r)*	558	11-2-2018
200 KAR 30:020		
Repealed	558	11-2-2018
200 KAR 30:030		
Repealed	558	11-2-2018
200 KAR 30:040		
Repealed	558	11-2-2018
200 KAR 30:070		
Repealed	558	11-2-2018
201 KAR 1:290	2802	
201 KAR 1:300		
Withdrawn		2-25-2019
Amended	2964	
201 KAR 1:310	2804	
201 KAR 2:015		
Amended	146	
As Amended	650	9-19-2018
201 KAR 2:370		
Amended	740	
Am Comments	1684	
As Amended	2575	3-13-2019
201 KAR 3:045		See 44 Ky.R.
As Amended	327	8-31-2018
Recodified as 831 KAR 1:020		10-12-2018
201 KAR 3:090		See 44 Ky.R.
As Amended	327	8-24-2018
Recodified as 831 KAR 1:010		10-12-2018
201 KAR 3:100		See 44 Ky.R.
As Amended	328	8-31-2018
Recodified as 831 KAR 1:030		10-12-2018
201 KAR 5:090		See 44 Ky.R.
As Amended	330	8-31-2018
201 KAR 6:050		See 44 Ky.R.
As Amended	330	8-31-2018
201 KAR 8:581		
Amended	3244	
201 KAR 9:031		See 44 Ky.R.
As Amended	17	7-18-2018
201 KAR 9:260		
Amended	743	12-12-2018
201 KAR 9:270		
Withdrawn		3-14-2019
201 KAR 12:010		See 44 Ky.R.
As Amended	330	8-31-2018
201 KAR 12:030		See 44 Ky.R.
As Amended	331	8-31-2018
Amended	1723	
As Amended	2332	3-8-2019
201 KAR 12:082		See 44 Ky.R.
As Amended	17	8-6-2018
Amended	1727	
As Amended	2335	3-8-2019
201 KAR 12:085		
Repealed	947	11-2-2018
201 KAR 12:088		
Repealed	947	11-2-2018
201 KAR 12:120		
Repealed	947	11-2-2018
201 KAR 12:140		See 44 Ky.R.
As Amended	334	8-31-2018
201 KAR 12:180		
Repealed	947	11-2-2018
201 KAR 12:190		See 44 Ky.R.
As Amended	335	8-31-2018
201 KAR 12:230		See 44 Ky.R.
As Amended	337	8-31-2018
201 KAR 12:250		
Repealed	947	11-2-2018
201 KAR 12:251*(r)*	212	11-2-2018
As Amended	947	
201 KAR 12:260		See 44 Ky.R.
As Amended	20	8-6-2018
Amended	1731	
As Amended	2338	3-8-2019
201 KAR 12:280	213	
As Amended	947	11-9-2018
201 KAR 13:040		
Amended	3246	
201 KAR 13:050		
Amended	3249	
201 KAR 13:055		
Amended	3251	
201 KAR 13:060		
Amended	3253	
201 KAR 20:056		
Amended	1733	
Am Comments	2702	3-13-2019
201 KAR 20:057		
Amended	411	
Am Comments	1044	11-27-2018
201 KAR 20:062		
Amended	1736	
As Amended	2577	3-13-2019
201 KAR 20:065		
Amended	2159	
Am Comments	2702	
As Amended	2860	
201 KAR 20:161		
Amended	1739	
As Amended	2580	3-13-2019
201 KAR 20:162		
Amended	1742	
As Amended	2582	3-13-2019
201 KAR 20:215		
Amended	1743	
As Amended	2583	3-13-2019
201 KAR 20:220		
Amended	1746	3-13-2019

Regulation Number	43 Ky.R. Page No.	Effective Date
201 KAR 20:226*(r)*	1853	
As Amended	2585	3-13-2019
201 KAR 20:235		
Repealed	2585	3-13-2019
201 KAR 20:240		
Amended	1748	
As Amended	2585	3-13-2019
201 KAR 20:260		
Amended	1750	
As Amended	2586	3-13-2019
201 KAR 20:280		
Amended	1754	
As Amended	2589	3-13-2019
201 KAR 20:310		
Amended	1757	
As Amended	2591	3-13-2019
201 KAR 20:320		
Amended	1759	
As Amended	2593	3-13-2019
201 KAR 20:340		
Amended	1762	3-13-2019
201 KAR 20:350		
Amended	1763	3-13-2019
201 KAR 20:360		
Amended	1764	
As Amended	2594	3-13-2019
201 KAR 20:362	1854	
As Amended	2597	3-13-2019
201 KAR 20:411		
Amended	1767	
As Amended	2597	3-13-2019
201 KAR 20:420		
Repealed	2585	3-13-2019
201 KAR 20:430		
Repealed	2585	3-13-2019
201 KAR 20:440		
Repealed	2585	3-13-2019
201 KAR 20:460		
Repealed	2585	3-13-2019
201 KAR 20:490		
Amended	415	
As Amended	948	**!** 11-2-2018
201 KAR 21:015		
Amended	1079	1-23-2019
201 KAR 21:041		
Amended	3254	
201 KAR 21:042		
Amended	3256	
201 KAR 21:045		
Amended	1080	
As Amended	2073	1-23-2019
201 KAR 22:020		
Amended	4148	**!** 11-2-2018
Amended	2755	
As Amended	3057	
201 KAR 22:040		
Amended	420	**!** 11-2-2018
201 KAR 22:070		
Amended	2161	
As Amended	2862	3-13-2019
201 KAR 22:135		
Amended	3258	
201 KAR 22:170		
Amended	422	
As Amended	951	**!** 11-2-2018
Amended	2164	
201 KAR 23:150	1459	
201 KAR 26:130		
Amended	1324	
As Amended	2073	1-23-2019
201 KAR 26:140		
Amended	1326	
As Amended	2075	1-23-2019
201 KAR 26:171		
Amended	1328	
As Amended	2076	1-23-2019
201 KAR 26:175		
Amended	1332	1-23-2019
201 KAR 26:200		
Amended	1335	1-23-2019
201 KAR 26:210		
Repealed	1463	1-23-2019
201 KAR 26:211*(r)*	1463	
As Amended	2079	1-23-2019
201 KAR 26:280		
Amended	1337	
As Amended	2079	1-23-2019
201 KAR 27:005		
Amended	2414	
As Amended	2863	
201 KAR 27:008		
Amended	2416	
As Amended	2864	
201 KAR 27:011		
Amended	2419	
As Amended	2866	
201 KAR 27:016		
Amended	2425	
As Amended	2871	
201 KAR 27:020		
Amended	2431	
As Amended	2876	
201 KAR 27:022*(r)*	2532	
201 KAR 28:020		
Repealed	1464	2-1-2019
201 KAR 28:021*(r)*	1464	
201 KAR 28:060		
Amended	1339	
As Amended	2080	2-1-2019
201 KAR 28:090		
Repealed	1464	2-1-2019
201 KAR 28:110		
Repealed	1464	2-1-2019
201 KAR 28:170		
Amended	1341	2-1-2019
201 KAR 28:180		
Repealed	1464	2-1-2019
201 KAR 28:210		
Repealed	1464	2-1-2019
201 KAR 32:110	1855	
Am Comments	2705	
201 KAR 34:060		See 44 Ky.R.
As Amended	337	8-31-2018
201 KAR 41:100		See 44 Ky.R.
As Amended	340	8-24-2018
201 KAR 46:010		
Amended	2967	
201 KAR 46:020		
Amended	2970	
201 KAR 46:030		
Amended	2971	
201 KAR 46:040		
Amended	2972	
201 KAR 46:045		
Amended	2975	
201 KAR 46:081		
Amended	2976	
202 KAR 3:010		
Amended	3259	
202 KAR 3:040		
Amended	2757	
202 KAR 7:520		

Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	2760	
202 KAR 7:575	2805	
301 KAR 1:015		
Amended	748	12-7-2018
301 KAR 1:115		
Amended	148	
As Amended	651	9-6-2018
301 KAR 1:132		
Amended	750	12-7-2018
301 KAR 1:152		
Amended	2165	4-5-2019
301 KAR 1:155		
Amended	2167	4-5-2019
301 KAR 1:201		
Amended	423	
As Amended	951	10-4-2018
301 KAR 1:410		
Amended	428	
As Amended	955	10-4-2018
301 KAR 2:030		
Amended	3260	
301 KAR 2:095		
Amended	1081	
Withdrawn by agency		12-17-2018
Amended	2432	
301 KAR 2:132		
Amended	1344	
As Amended	2081	2-1-2019
301 KAR 2:172		See 44 Ky.R.
As Amended	652	10-5-2018
Amended	2434	
As Amended	3058	
301 KAR 2:178		
Amended	2765	
As Amended	3060	
301 KAR 2:221		See 44 Ky.R.
As Amended	21	7-5-2018
301 KAR 2:222		See 44 Ky.R.
As Amended	22	7-5-2018
301 KAR 2:225		
Amended	752	12-7-2018
As Amended	1184	
301 KAR 2:228		See 44 Ky.R.
As Amended	341	8-6-2018
301 KAR 3:022		
Amended	755	
As Amended	1186	12-7-2018
Amended	2722	
301 KAR 3:091*(r)*	2996	
301 KAR 3:100		
Amended	1083	
As Amended	1521	12-14-2018
301 KAR 4:090		
Amended	758	
As Amended	1187	12-7-2018
302 KAR 1:010		
Repealed	1857	3-8-2019
302 KAR 1:011*(r)*	1857	3-8-2019
302 KAR 1:020		
Repealed	1857	3-8-2019
302 KAR 1:030		
Repealed	1857	3-8-2019
302 KAR 1:035		
Repealed	1857	3-8-2019
302 KAR 1:040		
Repealed	1857	3-8-2019
302 KAR 1:050		
Repealed	1857	3-8-2019
302 KAR 1:055		
Repealed	1857	3-8-2019
302 KAR 1:070		
Repealed	1857	3-8-2019
302 KAR 1:080		
Repealed	1857	3-8-2019
302 KAR 3:011*(r)*	2807	
302 KAR 20:054		
Repealed	1189	11-14-2018
302 KAR 20:056		
Repealed	1189	11-14-2018
302 KAR 20:057		
Repealed	1189	11-14-2018
302 KAR 20:058		
Repealed	1190	11-14-2018
302 KAR 20:210		
Repealed	1188	11-14-2018
302 KAR 20:211*(r)*	863	
As Amended	1188	11-14-2018
302 KAR 20:220		
Repealed	1188	11-14-2018
302 KAR 20:221*(r)*	864	
As Amended	1188	11-14-2018
302 KAR 20:230		
Repealed	1189	11-14-2018
302 KAR 20:231*(r)*	865	
As Amended	1189	11-14-2018
302 KAR 20:541*(r)*	866	
As Amended	1189	11-14-2018
302 KAR 20:561*(r)*	867	
As Amended	1189	11-14-2018
302 KAR 20:571*(r)*	868	
As Amended	1189	11-14-2018
302 KAR 20:581*(r)*	869	
As Amended	1190	11-14-2018
302 KAR 27:010		
Amended	2437	
As Amended	2877	
302 KAR 27:020		
Amended	2439	
As Amended	2878	
302 KAR 27:031*(r)*	2533	
As Amended	2879	
302 KAR 27:040		
Amended	2441	
As Amended	2880	
302 KAR 27:050		
Amended	2442	
As Amended	2880	
302 KAR 27:060		
Amended	2446	
As Amended	2883	
302 KAR 28:010		
Amended	2448	
As Amended	2885	
302 KAR 28:020		
Amended	2450	
As Amended	2885	
302 KAR 28:030		
Amended	2452	
As Amended	2887	
302 KAR 28:040		
Amended	2453	
As Amended	2887	
302 KAR 28:050		
Amended	2454	
As Amended	2887	
302 KAR 28:060		
Amended	2457	
As Amended	2889	
302 KAR 29:020		
Amended	150	
As Amended	655	9-28-2018
302 KAR 50:080		

Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	1085	
As Amended	1522	
302 KAR 50:090	2253	
As Amended	2890	
302 KAR 77:010		
Repealed	1858	3-8-2019
302 KAR 77:011*(r)*	1858	
As Amended	2339	3-8-2019
302 KAR 77:030		
Repealed	1858	3-8-2019
302 KAR 85:010		
Amended	2458	
As Amended	2891	
302 KAR 100:010		
Repealed	1858	11-14-2018
302 KAR 100:011*(r)*	870	11-14-2018
302 KAR 100:020		
Repealed	827	11-14-2018
302 KAR 100:021*(r)*	827	11-14-2018
400 KAR 1:001		
Amended	431	10-4-2018
400 KAR 1:040		
Amended	433	
As Amended	958	10-4-2018
400 KAR 1:090		
Amended	439	
As Amended	963	10-4-2018
400 KAR 1:100		
Amended	448	
As Amended	970	10-4-2018
400 KAR 1:110		
Amended	453	
As Amended	974	10-4-2018
400 KAR 2:060		
Amended	1770	
As Amended	2599	4-5-2019
400 KAR 2:070		
Amended	1772	
As Amended	2600	4-5-2019
400 KAR 2:080		
Amended	1773	
As Amended	2601	4-5-2019
400 KAR 2:090		
Amended	1776	
As Amended	2602	4-5-2019
400 KAR 2:100		
Amended	1780	
As Amended	2605	4-5-2019
400 KAR 3:010		
Amended	1782	4-5-2019
400 KAR 3:020		
Amended	1783	
As Amended	2606	4-5-2019
400 KAR 3:030		
Amended	1785	
As Amended	2607	4-5-2019
400 KAR 3:040		
Amended	1786	
As Amended	2607	4-5-2019
400 KAR 4:110		
Amended	1789	
As Amended	2610	4-5-2019
400 KAR 4:125		
Amended	1791	
As Amended	2611	4-5-2019
400 KAR 4:130		
Amended	1796	
As Amended	2615	4-5-2019
400 KAR 4:140		
Amended	1799	
As Amended	2617	4-5-2019
401 KAR 5:002		See 44 Ky.R.
Am Comments	667	
As Amended	982	11-1-2018
401 KAR 5:005		See 44 Ky.R.
Am Comments	675	
As Amended	989	11-1-2018
401 KAR 5:006		See 44 Ky.R.
As Amended	1000	
As Amended IJC	1523	11-1-2018
401 KAR 5:015		See 44 Ky.R.
Am Comments	687	
As Amended	1002	11-1-2018
401 KAR 5:037		See 44 Ky.R.
Am Comments	690	
As Amended	1003	11-1-2018
401 KAR 5:045		See 44 Ky.R.
As Amended	1008	11-1-2018
401 KAR 5:055		See 44 Ky.R.
As Amended	1009	11-1-2018
401 KAR 5:075		See 44 Ky.R.
As Amended	1011	11-1-2018
401 KAR 5:320		See 44 Ky.R.
Am Comments	696	
As Amended	1012	11-1-2018
401 KAR 39:060		
Amended	1349	
As Amended	2621	4-5-2019
401 KAR 39:080		
Amended	1355	4-5-2019
401 KAR 39:090		
Amended	1358	
As Amended	2624	4-5-2019
401 KAR 40:050		
Repealed	1465	4-5-2019
401 KAR 40:051*(r)*	1465	4-5-2019
401 KAR 42:005		
Amended	1365	
Am Comments	2360	
As Amended	2630	4-5-2019
401 KAR 42:011		
Repealed	1466	4-5-2019
401 KAR 42:020		
Amended	1370	
Am Comments	2365	
As Amended	2634	4-5-2019
401 KAR 42:030		
Repealed	1466	4-5-2019
401 KAR 42:040		
Repealed	1466	4-5-2019
401 KAR 42:045		
Repealed	1466	4-5-2019
401 KAR 42:050		
Repealed	1466	4-5-2019
401 KAR 42:060		
Amended	1380	
Am Comments	2374	
As Amended	2642	4-5-2019
401 KAR 42:070		
Repealed	1466	4-5-2019
401 KAR 42:080		
Repealed	1466	4-5-2019
401 KAR 42:090		
Repealed	1466	4-5-2019
401 KAR 42:095		
Repealed	1466	4-5-2019
401 KAR 42:200		
Repealed	1466	4-5-2019
401 KAR 42:250		
Amended	1384	
Am Comments	2378	
As Amended	2644	4-5-2019

Regulation Number	43 Ky.R. Page No.	Effective Date
401 KAR 42:290		
Repealed	1466	4-5-2019
401 KAR 42:300		
Repealed	1466	4-5-2019
401 KAR 42:316		
Repealed	1466	4-5-2019
401 KAR 42:320		
Repealed	1466	4-5-2019
401 KAR 42:330		
Amended	1397	
Am Comments	2391	
As Amended	2655	4-5-2019
401 KAR 42:335		
Repealed	1466	4-5-2019
401 KAR 42:340		
Repealed	1466	4-5-2019
401 KAR 42:341*(r)*	1466	4-5-2019
401 KAR 52:050		
Amended	759	
Am Comments	1687	
As Amended	2085	2-1-2019
401 KAR 52:070		
Amended	761	
Am Comments	1689	
As Amended	2085	2-1-2019
405 KAR 10:001		
Amended	2979	
405 KAR 10:015		
Amended	2982	
418 KAR 1:010		
Amended	1804	
As Amended	2658	4-5-2019
418 KAR 1:020		
Amended	1806	
As Amended	2659	4-5-2019
418 KAR 1:040		
Amended	1808	
As Amended	2660	4-5-2019
418 KAR 1:050		
Amended	1809	
As Amended	2661	4-5-2019
418 KAR 1:060		
Amended	1811	
As Amended	2661	4-5-2019
418 KAR 1:070		
Amended	1813	
As Amended	2662	4-5-2019
500 KAR 2:020		
Amended	1815	
As Amended	2892	
500 KAR 2:030		
Withdrawn		3-14-2019
500 KAR 3:020		
Amended	1402	
As Amended	2087	2-1-2019
500 KAR 9:011*(r)*	3354	
500 KAR 15:010	3355	
501 KAR 6:020		
Amended	764	
Am Comments	1220	
As Amended	1524	1-4-2019
501 KAR 6:070		See 44 Ky.R.
As Amended	342	8-31-2018
503 KAR 1:110		
Amended	462	
Am Comments	1047	12-7-2018
505 KAR 1:080		
Amended	2460	
As Amended	2895	
505 KAR 1:100		
Amended	2171	
As Amended	2663	4-5-2019
505 KAR 1:110		
Amended	1818	
As Amended	2663	4-5-2019
505 KAR 1:120		See 44 Ky.R.
Am Comments	368	
As Amended	656	10-5-2018
505 KAR 1:140		See 44 Ky.R.
Am Comments	369	10-5-2018
505 KAR 1:180	1859	
As Amended	2664	4-5-2019
505 KAR 1:190	2255	
As Amended	2665	4-5-2019
601 KAR 2:030		
Amended	152	
Withdrawn by agency		1-8-2019
Amended	2464	
603 KAR 2:015		
Amended	2173	
As Amended	2665	4-5-2019
603 KAR 5:070		
Amended	1405	
As Amended	2089	2-1-2019
701 KAR 5:140		
Amended	766	
As Amended	1526	1-4-2019
701 KAR 5:150	1468	
As Amended	2339	3-8-2019
702 KAR 1:160		
Amended	2744	
As Amended	3066	
702 KAR 7:065		
Amended	770	
As Amended	1190	11-19-2018
703 KAR 5:211*(r)*	2808	
703 KAR 5:225		See 44 Ky.R.
As Amended	26	8-6-2018
703 KAR 5:270		
Amended	2179	
Am Comments	2707	
As Amended	3068	
703 KAR 5:280		See 44 Ky.R.
As Amended	29	8-6-2018
704 KAR 3:015	215	
As Amended	1016	11-2-2018
704 KAR 3:292		
Amended	1410	
As Amended	2341	3-8-2019
704 KAR 3:303		
Amended	1412	3-8-2019
Amended	2987	
704 KAR 3:305		
Amended	1414	
Am Comments	2111	
As Amended	2342	4-5-2019
704 KAR 3:306	217	
Am Comments	700	
As Amended	1017	11-2-2018
Recodified as 704 KAR 8:070		1-10-2019
704 KAR 3:365		
Amended	1418	
As Amended	2348	3-8-2019
704 KAR 7:081*(r)*	2809	
704 KAR 8:010	1471	
As Amended	2092	2-1-2019
704 KAR 8:020	1473	
As Amended	2350	3-8-2019
704 KAR 8:030	1474	2-1-2019
704 KAR 8:040	1476	
As Amended	2350	3-8-2019
704 KAR 8:050	1478	2-1-2019

Regulation Number	43 Ky.R. Page No.	Effective Date
704 KAR 8:060	2810	
Am Comments	3193	
704 KAR 8:070		
Recodified from 704 KAR 3:306		1-10-2019
735 KAR 1:010		See 44 Ky.R.
As Amended	34	8-6-2018
735 KAR 1:020		See 44 Ky.R.
As Amended	36	8-6-2018
735 KAR 2:010		See 44 Ky.R.
As Amended	38	8-6-2018
735 KAR 2:020		See 44 Ky.R.
As Amended	39	8-6-2018
735 KAR 2:030		See 44 Ky.R.
As Amended	39	8-6-2018
735 KAR 2:040		See 44 Ky.R.
As Amended	40	8-6-2018
735 KAR 2:050		See 44 Ky.R.
As Amended	40	8-6-2018
735 KAR 2:060		See 44 Ky.R.
As Amended	41	8-6-2018
787 KAR 1:010		
Amended	1087	
As Amended	1528	1-4-2019
802 KAR 1:010		
Amended	2470	
803 KAR 2:180		
Amended	2989	
803 KAR 2:320		
Amended	2472	
As Amended	2898	
803 KAR 2:505		
Amended	2478	
As Amended	2901	
803 KAR 25:089		
Amended	158	
As Amended	1193	12-7-2018
803 KAR 25:270	2534	
Am Comments	2928	
803 KAR 25:290	2256	
As Amended	2901	
803 KAR 30:010		
Amended	774	
Am Comments	1691	
As Amended	2093	2-1-2019
803 KAR 30:020		
Repealed	873	2-1-2019
803 KAR 30:021*(r)*	873	2-1-2019
803 KAR 50:010		
Amended	780	12-7-2018
As Amended	1193	
804 KAR 1:030		
Amended	2187	
As Amended	2672	4-5-2019
804 KAR 1:070		
Amended	1820	
As Amended	2351	3-8-2019
804 KAR 1:110		
Amended	1822	
As Amended	2351	3-8-2019
804 KAR 2:015		
Repealed	2259	4-5-2019
804 KAR 2:016*(r)*	2259	4-5-2019
804 KAR 4:010		
Repealed	1479	2-1-2019
804 KAR 4:011*(r)*	1479	2-1-2019
804 KAR 5:020		
Repealed	1154	1-4-2019
804 KAR 5:021*(r)*	1154	1-4-2019
804 KAR 5:080	219	11-2-2018
804 KAR 7:020		
Amended	3262	
804 KAR 7:031*(r)*	3360	
804 KAR 8:050		
Amended	1088	1-4-2019
804 KAR 11:030		
Repealed	1860	3-8-2019
804 KAR 11:031*(r)*	1860	3-8-2019
805 KAR 1:210	560	10-4-2018
805 KAR 3:100		
Amended	1421	
As Amended	2097	2-1-2019
Amended	2991	
805 KAR 7:080		
Amended	2189	
As Amended	2672	4-5-2019
806 KAR 2:092		
Amended	1423	
As Amended	3075	
806 KAR 2:100		
Amended	1425	
As Amended	3076	
806 KAR 2:121*(r)*	1480	
806 KAR 5:011*(r)*	1482	
As Amended	3076	
806 KAR 9:001		
Amended	3264	
806 KAR 9:020		
Amended	3265	
806 KAR 9:061*(r)*	3361	
806 KAR 9:070		
Amended	3267	
806 KAR 9:310		
Amended	3269	
806 KAR 9:321*(r)*	3362	
806 KAR 9:360		
Amended	159	
As Amended	656	10-5-2018
806 KAR 10:030		
Amended	1824	
Am Comments	2716	
806 KAR 10:051*(r)*	3363	
806 KAR 17:010		
Repealed	561	11-2-2018
806 KAR 17:020		
Amended	446	11-2-2018
806 KAR 17:090		
Repealed	561	11-2-2018
806 KAR 17:091*(r)*	561	11-2-2018
806 KAR 17:130		
Repealed	561	11-2-2018
806 KAR 17:300		
Amended	437	11-2-2018
806 KAR 17:310		
Repealed	561	11-2-2018
806 KAR 17:320		
Repealed	561	11-2-2018
806 KAR 17:330		
Repealed	561	11-2-2018
806 KAR 17:360		
Amended	470	11-2-2018
806 KAR 17:440		
Repealed	561	11-2-2018
806 KAR 17:460		
Repealed	561	11-2-2018
806 KAR 17:500		
Repealed	561	11-2-2018
806 KAR 17:540		
Repealed	561	11-2-2018
806 KAR 17:545		
Repealed	561	11-2-2018
806 KAR 17:555		
Repealed	561	11-2-2018

Regulation Number	43 Ky.R. Page No.	Effective Date
806 KAR 17:570		
Amended	161	
As Amended	1202	12-7-2018
806 KAR 47:010		
Amended	2993	
806 KAR 47:021*(r)*	2997	
807 KAR 5:022		
AmComments	62	8-6-2018
807 KAR 5:026		
AmComments	92	8-6-2018
807 KAR 5:056		
Amended	3272	
808 KAR 1:060		
Amended	2192	
As Amended	2904	
808 KAR 1:140		
Amended	2194	
As Amended	2904	
808 KAR 1:161*(r)*	2260	
808 KAR 1:170	2261	
As Amended	2906	
808 KAR 1:180	2266	
808 KAR 3:050		
Amended	2196	
As Amended	2908	
808 KAR 3:061*(r)*	2268	
As Amended	2910	
808 KAR 5:041*(r)*	2269	
808 KAR 6:095		
Amended	2199	
As Amended	2910	
808 KAR 6:121*(r)*	*2270*	
As Amended		
808 KAR 9:010		
Amended	2220	
808 KAR 9:031*(r)*	2271	
808 KAR 9:040		
Amended	2202	
As Amended	2911	
808 KAR 9:050		
Amended	2203	
808 KAR 11:021*(r)*	2272	
808 KAR 12:050		
Amended	2206	
As Amended	2911	
808 KAR 12:055		
Amended	2207	
808 KAR 12:111*(r)*	2273	
As Amended	2911	
808 KAR 14:010	2275	
As Amended	2912	
808 KAR 14:020	2277	
808 KAR 15:010	2278	
As Amended	2913	
808 KAR 15:020	2279	
As Amended	2913	
808 KAR 15:030	2281	
As Amended	2913	
808 KAR 15:040	2283	
As Amended	2914	
810 KAR 1:301*(r)*	1862	
810 KAR 2:001	1863	
Am Comments	2718	
As Amended	3076	
810 KAR 2:010	1866	
As Amended	3078	
810 KAR 2:020	1868	
As Amended	3079	
810 KAR 2:030	1870	
As Amended	3081	
810 KAR 2:040	1873	
As Amended	3082	
810 KAR 2:050	1875	
As Amended	3084	
810 KAR 2:060	1880	
As Amended	3087	
810 KAR 2:070	1881	
As Amended	3088	
810 KAR 2:080	1886	
As Amended	3092	
810 KAR 3:001	1890	
As Amended	3095	
810 KAR 3:010	1892	
As Amended	3096	
810 KAR 3:020	1895	
As Amended	3098	
810 KAR 3:030	1901	
As Amended	3104	
810 KAR 3:040	1904	
As Amended	3106	
810 KAR 3:050	1909	
As Amended	3110	
810 KAR 4:001	1912	
Am Comments	2720	
As Amended	3111	
810 KAR 4:010	1915	
As Amended	3113	
810 KAR 4:020	1918	
Am Comments	2723	
As Amended	3115	
810 KAR 4:030	1919	
As Amended	3116	
810 KAR 4:040	1923	
As Amended	3118	
810 KAR 4:050	1925	
As Amended	3120	
810 KAR 4:060	1927	
As Amended	3121	
810 KAR 4:070	1930	
As Amended	3122	
810 KAR 4:080	1934	
As Amended	3123	
810 KAR 4:090	1936	
As Amended	3123	
810 KAR 4:100	1938	
As Amended	3126	
810 KAR 5:001	1940	
As Amended	3129	
810 KAR 5:010	1942	
As Amended	3131	
810 KAR 5:020	1944	
810 KAR 5:030	1947	
As Amended	3131	
810 KAR 5:040	1949	
As Amended	3133	
810 KAR 5:050	1951	
As Amended	3134	
810 KAR 5:060	1953	
As Amended	3135	
810 KAR 5:070	1958	
As Amended	3139	
810 KAR 5:080	1963	
As Amended	3144	
810 KAR 6:020	1966	
As Amended	3145	
810 KAR 7:010	1976	
As Amended	3154	
810 KAR 7:020	1978	
As Amended	3154	
810 KAR 7:030	1982	
810 KAR 7:040	1984	
As Amended	3158	

Regulation Number	43 Ky.R. Page No.	Effective Date
810 KAR 7:060	1989	
As Amended	3161	
810 KAR 7:070	1992	
As Amended	3164	
810 KAR 8:010	1995	
As Amended	3165	
810 KAR 8:020	2001	
As Amended	3170	
810 KAR 8:030	2003	
As Amended	3171	
810 KAR 8:040	2009	
As Amended	3176	
810 KAR 8:050	2014	
810 KAR 8:060	2016	
As Amended	3180	
810 KAR 9:010	2018	
As Amended	3181	
811 KAR 1:301	2020	
811 KAR 2:301	2021	
815 KAR 2:010	874	
As Amended	1529	1-4-2019
815 KAR 2:020	876	
As Amended	1530	1-4-2019
815 KAR 2:030	879	1-4-2019
815 KAR 2:040	881	1-4-2019
815 KAR 4:030		
Amended	790	
As Amended	1532	1-4-2019
815 KAR 4:040		
Repealed	882	1-4-2019
815 KAR 4:050		
Repealed	882	1-4-2019
815 KAR 4:060		
Repealed	882	1-4-2019
815 KAR 4:070		
Repealed	882	1-4-2019
815 KAR 4:071*(r)*	882	1-4-2019
815 KAR 6:001		
Amended	1090	
As Amended	2674	4-5-2019
Recodified as 831 KAR 2:010		4-18-2019
815 KAR 6:010		
Amended	1091	
Am Comments	2117	
As Amended	2674	4-5-2019
Recodified as 831 KAR 2:020		4-18-2019
815 KAR 6:020		
Repealed	1155	4-5-2019
815 KAR 6:030		
Amended	1096	
As Amended	2678	4-5-2019
Recodified as 831 KAR 2:030		4-18-2019
815 KAR 6:040		
Amended	1099	
Am Comments	2121	
As Amended	2681	4-5-2019
815 KAR 6:080		
Repealed	1155	4-5-2019
815 KAR 6:090		
Repealed	1155	4-5-2019
815 KAR 6:100		
Repealed	1155	4-5-2019
815 KAR 6:101*(r)*	1155	4-5-2019
815 KAR 7:070		
Amended	794	
As Amended	1534	1-4-2019
815 KAR 7:110		See 44 Ky.R.
As Amended	343	8-22-2018
815 KAR 7:120		See 44 Ky.R.
Am Comments	96	8-22-2018
Amended	3274	
815 KAR 7:125		See 44 Ky.R.
Am Comments	98	8-22-2018
Amended	3277	
815 KAR 8:010		
Amended	800	
As Amended	1539	1-4-2019
815 KAR 8:030		
Amended	804	
As Amended	1542	1-4-2019
815 KAR 8:070		See 44 Ky.R.
As Amended	345	8-22-2018
815 KAR 8:080		See 44 Ky.R.
As Amended	347	8-22-2018
815 KAR 8:020		
Repealed	883	1-4-2019
815 KAR 8:035		
Repealed	883	1-4-2019
815 KAR 8:050		
Repealed	883	1-4-2019
815 KAR 8:060		
Repealed	883	1-4-2019
815 KAR 8:090		
Repealed	883	1-4-2019
815 KAR 8:091*(r)*	883	1-4-2019
815 KAR 8:095		
Repealed	883	1-4-2019
815 KAR 8:100		See 44 Ky.R.
As Amended	348	8-22-2018
815 KAR 15:080		
Amended	805	
As Amended	1543	1-4-2019
815 KAR 20:030		
Amended	808	
As Amended	1544	1-4-2019
815 KAR 20:012		
Repealed	885	1-4-2019
815 KAR 20:015		
Repealed	885	1-4-2019
815 KAR 20:018		
Repealed	885	1-4-2019
815 KAR 20:032		
Repealed	885	1-4-2019
815 KAR 20:034		
Repealed	885	1-4-2019
815 KAR 20:040		
Repealed	885	1-4-2019
815 KAR 20:041*(r)*	885	1-4-2019
815 KAR 22:010		
Repealed	886	1-4-2019
815 KAR 22:011*(r)*	886	1-4-2019
815 KAR 25:001	887	
As Amended	1547	1-4-2019
815 KAR 25:020		
Amended	813	
As Amended	1548	1-4-2019
815 KAR 25:040		
Amended	821	
As Amended	1555	1-4-2019
815 KAR 25:050		
Amended	822	
As Amended	1556	1-4-2019
815 KAR 25:060		
Amended	827	
As Amended	1560	1-4-2019
815 KAR 25:070		
Repealed	889	1-4-2019
815 KAR 25:080		
Repealed	889	1-4-2019
815 KAR 25:081*(r)*	889	1-4-2019
815 KAR 25:090		
Amended	832	1-4-2019

Regulation Number	43 Ky.R. Page No.	Effective Date
815 KAR 25:100		
Amended	835	1-4-2019
815 KAR 35:015		
Amended	837	
As Amended	1567	1-4-2019
815 KAR 35:020		
Amended	841	1-4-2019
815 KAR 35:060		
Amended	845	
As Amended	1570	1-4-2019
815 KAR 35:080		
Amended	849	1-4-2019
815 KAR 35:090		
Amended	850	1-4-2019
815 KAR 35:100		
Repealed	890	1-4-2019
815 KAR 35:101*(r)*	890	1-4-2019
820 KAR 1:001		See 44 Ky.R.
As Amended	1573	1-4-2019
820 KAR 1:005		See 44 Ky.R.
As Amended	1576	1-4-2019
820 KAR 1:025		See 44 Ky.R.
As Amended	1578	1-4-2019
820 KAR 1:032		See 44 Ky.R.
Am Comments	702	
As Amended	1579	1-4-2019
820 KAR 1:042		See 44 Ky.R.
As Amended	1592	1-4-2019
820 KAR 1:050		See 44 Ky.R.
Am Comments	715	
As Amended	1599	1-4-2019
820 KAR 1:055		See 44 Ky.R.
As Amended	1600	1-4-2019
820 KAR 1:057		See 44 Ky.R.
Am Comments	718	
As Amended	1601	1-4-2019
820 KAR 1:060		See 44 Ky.R.
Am Comments	724	
As Amended	1607	1-4-2019
820 KAR 1:130		See 44 Ky.R.
As Amended	1607	1-4-2019
820 KAR 1:135		See 44 Ky.R.
As Amended	1608	1-4-2019
830 KAR 1:010		
Amended	180	9-13-2018
830 KAR 2:001	563	11-2-2018
830 KAR 2:010	564	
As Amended	1021	11-2-2018
830 KAR 2:020	566	
As Amended	1022	11-2-2018
831 KAR 1:010		
Recodified from 201 KAR 3:090		10-12-2018
831 KAR 1:020		
Recodified from 201 KAR 3:045		10-12-2018
831 KAR 1:030		
Recodified from 201 KAR 3:100		10-12-2018
831 KAR 2:001		
Recodified from 815 KAR 6:001		4-18-2019
831 KAR 2:020		
Recodified from 815 KAR 6:010		4-18-2019
831 KAR 2:030		
Recodified from 815 KAR 6:030		4-18-2019
895 KAR 1:001	567	
Am Comments	1222	
As Amended	1609	1-4-2019
895 KAR 1:010	570	
Am Comments	1225	
As Amended	1611	1-4-2019
895 KAR 1:015	573	
Am Comments	1228	
As Amended	1613	1-4-2019
895 KAR 1:020	576	
Am Comments	1231	
As Amended	1615	1-4-2019
895 KAR 1:025	579	
As Amended	1616	1-4-2019
895 KAR 1:030	581	
Am Comments	1233	
As Amended	1617	1-4-2019
895 KAR 1:035	583	
As Amended	1618	1-4-2019
895 KAR 1:040	585	
As Amended	1619	1-4-2019
895 KAR 1:045	587	
As Amended	1620	1-4-2019
895 KAR 1:050	589	
Am Comments	1236	
As Amended	1621	1-4-2019
895 KAR 1:055	591	
As Amended	1621	1-4-2019
900 KAR 1:090		
Repealed	891	11-27-2018
900 KAR 1:091*(r)*	891	11-27-2018
900 KAR 2:020		
Repealed	1156	2-21-2019
900 KAR 2:021*(r)*	1156	2-21-2019
900 KAR 2:040		
Amended	1103	
Am Comments	2125	2-21-2019
900 KAR 5:020		
Amended	472	
Am Comments	1238	
As Amended	1622	12-12-2018
900 KAR 6:020		
Amended	1110	12-12-2018
900 KAR 6:075		
Amended	1427	
Am Comments	2395	
900 KAR 7:030		
Amended	2482	
900 KAR 9:010		
Amended	2210	
As Amended	2683	3-13-2019
900 KAR 10:021*(r)*	2537	
900 KAR 11:010		
Amended	1111	12-12-2018
902 KAR 2:055		See 44 Ky.R.
As Amended	350	8-31-2018
902 KAR 2:070		
Amended	3279	
902 KAR 8:165		
Amended	1430	1-23-2019
902 KAR 8:170		
Amended	1432	
As Amended	2098	1-23-2019
902 KAR 10:040		
Am Comments	100	See 44 Ky.R.
As Amended	351	8-13-2018
902 KAR 10:050		
Repealed	593	**!** 11-2-2018
902 KAR 10:051*(r)*	593	**!** 11-2-2018
902 KAR 15:010		
Amended	3281	
902 KAR 19:010		
Amended	2777	
As Amended	3182	
902 KAR 20:008		
Amended	474	
As Amended	1022	**!** 11-2-2018
902 KAR 20:016		See 44 Ky.R.
As Amended	355	8-31-2018
902 KAR 20:036		

Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	3286	
902 KAR 20:058		
Repealed	312	7-13-2018
902 KAR 20:076	2812	
902 KAR 20:111		
Amended	2781	
902 KAR 20:145		
Repealed	312	7-13-2018
902 KAR 20:190		
Repealed	312	7-13-2018
902 KAR 20:250		
Repealed	595	! 11-2-2018
902 KAR 20:251*(r)*	595	! 11-2-2018
902 KAR 20:260		
Amended	479	
As Amended	1026	! 11-2-2018
902 KAR 20:275		
Amended	485	
As Amended	1031	! 11-2-2018
902 KAR 20:300		
Amended	1117	12-12-2018
902 KAR 20:400		
Repealed	312	7-13-2018
902 KAR 45:005		
Amended	1127	
Am Comments	2132	2-21-2019
902 KAR 45:006		
Repealed	1157	2-21-2019
902 KAR 45:007*(r)*	1157	2-21-2019
902 KAR 45:065		
Amended	3294	
902 KAR 45:070		
Amended	3304	
902 KAR 45:075		
Amended	3314	
902 KAR 45:140		
Repealed	1157	2-21-2019
902 KAR 45:090		
Amended	1130	
Am Comments	2136	2-21-2019
902 KAR 45:160		
Amended	495	
As Amended	1040	! 11-2-2018
902 KAR 47:040		
Repealed	596	! 11-2-2018
902 KAR 47:050		
Repealed	596	! 11-2-2018
902 KAR 47:060		
Repealed	596	! 11-2-2018
902 KAR 47:070		
Repealed	596	! 11-2-2018
902 KAR 47:071*(r)*	596	! 11-2-2018
902 KAR 50:101*(r)*	3364	
902 KAR 50:110		
Amended	3316	
902 KAR 55:010		
Repealed	313	7-13-2018
902 KAR 100:017		
Repealed	597	12-12-2018
902 KAR 100:018*(r)*	597	12-12-2018
902 KAR 100:022		
Amended	499	
Am Comments	1240	
As Amended	1622	12-12-2018
902 KAR 100:052		
Amended	508	
As Amended	1630	12-12-2018
902 KAR 100:060		
Repealed	597	12-12-2018
902 KAR 100:070		
Amended	510	
Am Comments	1248	
As Amended	1631	12-12-2018
902 KAR 100:072		
Amended	517	
Am Comments	1255	
As Amended	1637	12-12-2018
902 KAR 100:090		
Repealed	597	12-12-2018
902 KAR 100:100		
Amended	542	
Am Comments	1280	
As Amended	1661	12-12-2018
902 KAR 100:142		
Amended	550	
Am Comments	1288	
As Amended	1667	12-12-2018
906 KAR 1:050		
Repealed	315	7-13-2018
906 KAR 1:060		
Repealed	315	7-13-2018
906 KAR 1:070		
Repealed	315	7-13-2018
906 KAR 1:190		
Amended	181	11-27-2018
906 KAR 1:200		See 44 Ky.R.
As Amended	42	7-18-2018
907 KAR 1:005		
Amended	1439	2-1-2019
907 KAR 1:022		
Amended	2784	
907 KAR 1:025		
Amended	1138	
As Amended	1673	1-4-2019
907 KAR 1:075		
Amended	1441	
As Amended	2104	2-1-2019
907 KAR 1:120		
Repealed	892	11-27-2018
907 KAR 1:121*(r)*	892	11-27-2018
907 KAR 1:130		
Repealed	892	11-27-2018
907 KAR 1:270		
Amended	2212	
As Amended	2684	4-5-2019
907 KAR 1:280		
Amended	2214	4-5-2019
907 KAR 1:330		
Amended	2790	
907 KAR 1:340		
Amended	2793	
907 KAR 1:360		
Amended	2215	
907 KAR 1:441	2813	4-5-2019
907 KAR 1:560		
Amended	1826	
Am Comments	2725	
As Amended	2915	
907 KAR 1:563		
Amended	1830	
Am Comments	2729	
As Amended	2918	
907 KAR 1:604		
Amended	2485	
Amended	3318	
907 KAR 1:642	598	
Withdrawn by agency		9-21-2018
907 KAR 1:755		
Amended	2796	
907 KAR 3:170		
Amended	2489	
907 KAR 5:005		

Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	2496	
907 KAR 8:040		
Amended	1444	
As Amended	2352	3-8-2019
907 KAR 10:820		
Amended	2218	
Am Comments	2930	
As Amended	3184	
908 KAR 1:341*(r)*	2538	
908 KAR 1:370		
Amended	2500	
Am Comments	3195	
908 KAR 1:372	2539	
Am Comments	3215	
908 KAR 1:374	2546	
Am Comments	3222	
910 KAR 1:090		
Amended	187	
As Amended	657	9-19-2018
910 KAR 1:240		
Amended	2223	
Am Comments	2733	
As Amended	2921	
910 KAR 2:020		
Amended	3322	
910 KAR 2:030		See 44 Ky.R.
Am Comments	371	
As Amended	662	9-19-2018
911 KAR 1:010	2814	
911 KAR 1:020	2819	
911 KAR 1:060	2823	
911 KAR 1:071*(r)*	2828	
920 KAR 2:010		
Recodified as 922 KAR 8:010		2-1-2019
920 KAR 2:020		
Recodified as 922 KAR 5:020		2-1-2019
920 KAR 2:040		
Recodified as 922 KAR 1:580		2-1-2019
921 KAR 1:380		
Amended	193	9-19-2018
921 KAR 2:015		
Amended	2520	
Am Comments	3232	
921 KAR 2:055		
Amended	1835	
Am Comments	2738	
As Amended	2925	
921 KAR 3:025		
Amended	196	
As Amended	1677	12-12-2018
921 KAR 3:030		
Amended	200	
As Amended	664	9-19-2018
921 KAR 3:035		
Amended	202	
As Amended	1680	12-12-2018
921 KAR 3:050		
Amended	1838	2-21-2019
921 KAR 3:060		
Amended	1842	
921 KAR 3:070		
Amended	1845	
922 KAR 1:010		
Amended	1142	
Am Comments	2143	
As Amended	2354	2-21-2019
922 KAR 1:050		
Amended	1447	
As Amended	2685	3-13-2019
922 KAR 1:060		
Amended	1451	1-23-2019
922 KAR 1:100		
Amended	1147	
Am Comments	2147	
As Amended	2357	2-21-2019
922 KAR 1:140		
Amended	2228	
Am Comments	2935	
922 KAR 1:305		
Amended	2231	
Am Comments	2938	
922 KAR 1:310		
Amended	3326	
922 KAR 1:350		
Amended	3340	
922 KAR 1:495		
Amended	3350	
922 KAR 1:360		
Amended	853	
Am Comments	1696	
As Amended	2106	1-23-2019
922 KAR 1:400		
Amended	2235	
922 KAR 1:410		
Repealed	1159	12-12-2018
922 KAR 1:411*(r)*	1159	12-12-2018
922 KAR 1:500		
Amended	2238	3-13-2019
922 KAR 1:530		
Amended	1454	
Am Comments	2398	3-13-2019
922 KAR 1:560	600	
Am Comments	1294	
As Amended	1682	12-12-2018
922 KAR 1:565	2284	
Am Comments	2942	
As Amended	3187	
922 KAR 1:580		
Recodified from 920 KAR 2:040		2-1-2019
922 KAR 2:120		See 44 Ky.R.
As Amended	43	7-18-2018
922 KAR 2:160		
Amended	2284	
Am Comments	2945	
922 KAR 2:180		See 44 Ky.R.
As Amended	51	7-18-2018
922 KAR 2:190		See 44 Ky.R.
As Amended	56	7-18-2018
922 KAR 2:270		See 44 Ky.R.
As Amended	57	7-18-2018
922 KAR 5:020		
Recodified from 920 KAR 2:020		2-1-2019
922 KAR 8:010		
Recodified from 920 KAR 2:010		2-1-2019

KRS INDEX

KRS SECTION	REGULATION
2.015	922 KAR 001:310
	922 KAR 001:350
11A.080	009 KAR 001:015
	009 KAR 001:030
11A.100	009 KAR 001:030
12.040	101 KAR 003:050
12.050	101 KAR 003:050
13A	301 KAR 003:091
13B	201 KAR 020:161
	201 KAR 020:162
	201 KAR 026:140
	603 KAR 002:015
	802 KAR 001:010
	900 KAR 002:021
	900 KAR 007:030
	902 KAR 045:160
	906 KAR 001:190
	907 KAR 001:560
	907 KAR 001:563
	910 KAR 001:090
	910 KAR 001:240
	921 KAR 002:055
	921 KAR 003:060
	921 KAR 003:070
	922 KAR 001:360
	922 KAR 001:500
13B.040	900 KAR 002:040
13B.050	900 KAR 002:040
	908 KAR 001:370
	922 KAR 001:305
13B.080	900 KAR 002:040
13B.090	900 KAR 002:040
13B.110	900 KAR 002:040
13B.125	908 KAR 001:370
13B.130	900 KAR 002:040
15.330	503 KAR 001:110
15.386	503 KAR 001:110
15.404	503 KAR 001:110
15.440	503 KAR 001:110
15A.065	505 KAR 001:100
	505 KAR 001:110
	505 KAR 001:180
	505 KAR 001:190
15A.0652	505 KAR 001:100
	505 KAR 001:110
	505 KAR 001:180
	505 KAR 001:190
15A.067	505 KAR 001:100
	505 KAR 001:110
	505 KAR 001:180
	505 KAR 001:190
15A.350 - 15A.366	500 KAR 015:010
17.165	910 KAR 001:240
	922 KAR 001:305
	922 KAR 001:310
17.500	908 KAR 001:370
	922 KAR 001:310
18A.005	101 KAR 002:020
	101 KAR 002:076
18A.030	101 KAR 002:020
	101 KAR 002:034
	101 KAR 002:095
	101 KAR 002:210
18A.032	101 KAR 002:020
18A.110	101 KAR 002:020
	101 KAR 002:034
	101 KAR 002:076
	101 KAR 002:095
	101 KAR 003:045
	101 KAR 003:050

KRS SECTION	REGULATION
18A.115	101 KAR 002:076
	101 KAR 003:050
18A.120	101 KAR 002:076
18A.155	101 KAR 003:045
	101 KAR 003:050
18A.165	101 KAR 002:034
18A.202	101 KAR 003:045
18A.225	101 KAR 002:210
18A.2254	101 KAR 002:210
23A.010	921 KAR 002:055
	921 KAR 003:070
39E.020	106 KAR 001:081
39E.030	106 KAR 001:081
39E.040	106 KAR 001:091
	106 KAR 001:111
39E.050	106 KAR 001:091
	106 KAR 001:101
	106 KAR 001:111
	106 KAR 001:121
39E.080	106 KAR 001:111
39E.110	106 KAR 001:091
	106 KAR 001:111
39E.130	106 KAR 001:091
39E.140	106 KAR 001:091
	106 KAR 001:111
39E.150	106 KAR 001:091
	106 KAR 001:111
39E.160	106 KAR 001:091
39E.170	106 KAR 001:091
39E.220	106 KAR 001:091
39E.230	106 KAR 001:091
	106 KAR 001:101
41	302 KAR 003:011
41.240	902 KAR 008:170
42.019	200 KAR 003:020
42.425	200 KAR 003:020
43.070	045 KAR 001:050
43.075	045 KAR 001:050
45.237	921 KAR 002:055
	921 KAR 003:070
45.237-45-241	922 KAR 001:400
	922 KAR 001:565
45A	603 KAR 002:015
	601 KAR 002:030
49.220	802 KAR 001:010
	803 KAR 030:010
49.230	802 KAR 001:010
49.240	802 KAR 001:010
49.250	802 KAR 001:010
56.010	200 KAR 003:020
56.463	200 KAR 003:020
61.300	500 KAR 003:020
61.360	500 KAR 003:020
61.510	105 KAR 001:145
	105 KAR 001:147
61.522	105 KAR 001:145
	105 KAR 001:147
61.546	105 KAR 001:145
	105 KAR 001:147
61.552	105 KAR 001:145
	105 KAR 001:147
61.555	105 KAR 001:145
	105 KAR 001:147
61.565	105 KAR 001:145
	105 KAR 001:147
61.590	105 KAR 001:145
	105 KAR 001:147
61.598	105 KAR 001:145
	105 KAR 001:147
61.625	105 KAR 001:145

KRS SECTION	REGULATION
	105 KAR 001:147
61.637	105 KAR 001:145
	105 KAR 001:147
61.675	105 KAR 001:145
	105 KAR 001:147
61.800	106 KAR 001:091
61.805	106 KAR 001:091
61.805 - 61.850	418 KAR 001:020
	702 KAR 007:065
61.810	106 KAR 001:091
61.820	106 KAR 001:091
61.823	106 KAR 001:091
61.826	106 KAR 001:091
61.835	106 KAR 001:091
61.870	401 KAR 039:060
	922 KAR 001:495
61.870 - 61.884	202 KAR 007:575
	418 KAR 001:020
	922 KAR 001:350
61.874	201 KAR 020:240
	201 KAR 022:135
61.878	401 KAR 042:250
	401 KAR 042:341
	603 KAR 002:015
61.884	401 KAR 039:060
61.900 - 61.930	500 KAR 002:020
61.990	500 KAR 003:020
62.010	500 KAR 003:020
62.990	500 KAR 003:020
64.810	045 KAR 001:050
68.210	045 KAR 001:050
78.510 - 78.852	105 KAR 001:145
	105 KAR 001:147
91A.080	806 KAR 002:092
	806 KAR 002:121
91A.0804	806 KAR 002:092
	806 KAR 002:121
91A.08010	806 KAR 002:092
116.048	921 KAR 003:030
116.085	031 KAR 003:010
116.155	031 KAR 003:010
117.015	031 KAR 004:120
117.025	031 KAR 003:010
117.045	031 KAR 004:100
	031 KAR 004:120
117.225	031 KAR 003:010
121.015	032 KAR 001:050
121.170	032 KAR 001:050
121.180	032 KAR 001:030
	032 KAR 001:070
131.010	103 KAR 001:040
131.030	103 KAR 001:040
131.081	103 KAR 001:040
	103 KAR 015:050
131.130	103 KAR 016:230
	103 KAR 016:352
	103 KAR 017:020
131.131	103 KAR 015:180
131.155	103 KAR 018:150
131.170	103 KAR 015:050
131.175	103 KAR 001:040
131.180	103 KAR 001:040
131.183	103 KAR 015:041
131.250	103 KAR 018:050
131.440	103 KAR 001:040
132.010	815 KAR 007:120
133.180	103 KAR 001:040
133.220	103 KAR 001:040
134.580	103 KAR 015:041
136.100	103 KAR 015:050
136.290	103 KAR 001:130
136.300	103 KAR 001:130
136.310	103 KAR 001:130
136.320	103 KAR 001:130

KRS SECTION	REGULATION
	103 KAR 015:180
136.330	103 KAR 015:180
136.340	103 KAR 015:180
136.350	103 KAR 015:180
136.370	103 KAR 015:180
136.390	103 KAR 015:180
136.392	806 KAR 002:100
138.510	810 KAR 007:030
	810 KAR 007:060
138.885	103 KAR 001:040
139.185	103 KAR 001:040
141.010	103 KAR 015:110
	103 KAR 015:120
	103 KAR 015:140
	103 KAR 016:011
	103 KAR 016:060
	103 KAR 016:090
	103 KAR 016:240
	103 KAR 016:352
	103 KAR 017:010
	103 KAR 017:020
	103 KAR 017:060
	103 KAR 019:010
141.011	103 KAR 016:250
141.017	103 KAR 017:060
141.019	103 KAR 001:130
	103 KAR 017:060
	103 KAR 019:010
141.020	103 KAR 015:110
	103 KAR 015:120
	103 KAR 015:140
	103 KAR 015:180
	103 KAR 017:010
	103 KAR 017:060
	103 KAR 017:100
	103 KAR 017:130
	103 KAR 019:010
141.030	103 KAR 015:110
	103 KAR 015:120
	103 KAR 015:140
	103 KAR 019:010
141.040	103 KAR 015:110
	103 KAR 015:120
	103 KAR 015:140
	103 KAR 015:180
	103 KAR 016:240
	103 KAR 016:270
	103 KAR 016:352
	103 KAR 016:381
141.042	103 KAR 015:050
	103 KAR 015:060
141.044	103 KAR 015:060
141.050	103 KAR 015:180
	103 KAR 017:020
141.070	103 KAR 017:140
141.081	103 KAR 019:010
141.120	103 KAR 015:195
	103 KAR 016:060
	103 KAR 016:090
	103 KAR 016:270
	103 KAR 016:290
	103 KAR 016:330
	103 KAR 016:340
	103 KAR 016:352
	103 KAR 016:381
	103 KAR 016:151
	103 KAR 016:270
141.121	103 KAR 016:090
	103 KAR 016:290
141.160	103 KAR 015:050
	103 KAR 016:352
141.170	103 KAR 015:050
	103 KAR 016:352
141.180	103 KAR 001:040

KRS SECTION	REGULATION
	103 KAR 017:020
141.190	103 KAR 019:010
141.200	103 KAR 016:250
	103 KAR 016:352
141.201	103 KAR 016:250
141.202	103 KAR 016:250
141.205	103 KAR 016:230
141.206	103 KAR 016:240
	103 KAR 016:270
	103 KAR 016:352
	103 KAR 018:081
141.210	103 KAR 015:041
	103 KAR 016:352
141.215	103 KAR 017:042
141.235	103 KAR 015:041
141.300	103 KAR 015:050
	103 KAR 015:060
	103 KAR 017:100
141.305	103 KAR 015:060
	103 KAR 017:100
141.310	103 KAR 018:110
	103 KAR 018:120
141.315	103 KAR 018:081
141.330	103 KAR 018:050
	103 KAR 018:150
141.335	103 KAR 018:050
141.340	103 KAR 001:040
141.347	103 KAR 018:180
	103 KAR 018:191
141.370	103 KAR 018:110
141.400	103 KAR 018:180
	103 KAR 018:191
141.401	103 KAR 018:180
	103 KAR 018:191
141.402	103 KAR 018:180
141.403	103 KAR 018:180
141.407	103 KAR 018:180
	103 KAR 018:191
141.415	103 KAR 018:180
141.422	103 KAR 015:110
	103 KAR 015:120
	103 KAR 015:140
141.423	103 KAR 015:140
141.424	103 KAR 015:140
141.432	103 KAR 015:180
141.433	103 KAR 015:180
141.434	103 KAR 015:180
141.438	103 KAR 015:195
141.900	103 KAR 001:130
141.901	103 KAR 016:330
141.990	103 KAR 001:040
	103 KAR 015:060
	103 KAR 016:352
	103 KAR 017:042
141.0401	103 KAR 015:110
	103 KAR 015:120
	103 KAR 015:140
	103 KAR 015:180
141.4242	103 KAR 015:110
	103 KAR 015:120
141.4246	103 KAR 015:110
	103 KAR 015:120
141.4248	103 KAR 015:110
	103 KAR 015:120
141.900	103 KAR 016:381
142.357	103 KAR 001:040
142.363	907 KAR 001:025
143.085	103 KAR 001:040
146.200 - 146.360	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
146.220	400 KAR 004:110
	400 KAR 004:125

KRS SECTION	REGULATION
	400 KAR 004:130
	400 KAR 004:140
146.241	400 KAR 004:110
146.250	400 KAR 004:110
146.260	400 KAR 004:110
146.270	400 KAR 004:110
	400 KAR 004:125
	400 KAR 004:130
	400 KAR 004:140
146.280	400 KAR 004:140
146.290	400 KAR 004:110
	400 KAR 004:125
	400 KAR 004:130
	400 KAR 004:140
146.310	400 KAR 004:110
	400 KAR 004:125
146.350	400 KAR 004:110
	400 KAR 004:125
	400 KAR 004:140
146.360	400 KAR 004:110
146.410	400 KAR 002:070
	400 KAR 002:080
	400 KAR 002:090
146.420	400 KAR 002:080
146.430	400 KAR 002:070
146.440	400 KAR 002:080
	400 KAR 002:090
146.450	400 KAR 001:001
	400 KAR 001:090
146.460	400 KAR 002:060
146.465	400 KAR 002:100
146.470	400 KAR 002:080
146.480	400 KAR 002:100
146.485	400 KAR 003:010
	400 KAR 003:020
	400 KAR 003:030
	400 KAR 003:040
146.490	400 KAR 002:060
	400 KAR 002:080
146.495	400 KAR 002:100
146.505	400 KAR 002:080
146.530	400 KAR 001:001
	400 KAR 001:090
146.550-146.570	418 KAR 001:010
	418 KAR 001:020
	418 KAR 001:040
	418 KAR 001:050
	418 KAR 001:060
	418 KAR 001:070
146.610	400 KAR 003:010
	400 KAR 003:020
	400 KAR 003:030
	400 KAR 003:040
146.990	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
	400 KAR 004:130
	400 KAR 004:140
147A.310	103 KAR 015:195
149.344	400 KAR 001:001
	400 KAR 001:090
	400 KAR 001:100
149.346	400 KAR 001:001
	400 KAR 001:090
	400 KAR 001:100
149.348	400 KAR 001:001
	400 KAR 001:090
	400 KAR 001:100
150.010	301 KAR 001:152
	301 KAR 001:155
	301 KAR 001:201
	301 KAR 001:410
	301 KAR 002:132

KRS SECTION	REGULATION
	301 KAR 002:172
	301 KAR 002:178
	301 KAR 004:090
150.025	301 KAR 003:022
150.120	301 KAR 001:155
150.090	301 KAR 001:015
150.170	301 KAR 001:152
	301 KAR 001:155
	301 KAR 001:201
	301 KAR 001:410
	301 KAR 002:030
	301 KAR 002:132
	301 KAR 002:178
	301 KAR 003:100
150.175	301 KAR 001:132
	301 KAR 001:152
	301 KAR 001:201
	301 KAR 001:410
	301 KAR 003:100
	301 KAR 004:090
150.177	301 KAR 002:172
150.180	301 KAR 001:132
	301 KAR 002:095
	301 KAR 002:132
	301 KAR 002:172
	301 KAR 003:022
	301 KAR 004:090
150.183	301 KAR 003:022
	301 KAR 004:090
150.230	301 KAR 003:091
150.235	301 KAR 001:410
150.240	301 KAR 003:022
150.250	301 KAR 003:091
150.275	301 KAR 003:022
150.280	301 KAR 001:132
	301 KAR 002:095
	301 KAR 003:022
150.290	301 KAR 001:115
	301 KAR 002:095
	301 KAR 003:022
150.305	301 KAR 004:090
150.330	301 KAR 002:225
	301 KAR 004:090
150.340	301 KAR 001:201
	301 KAR 002:178
	301 KAR 002:225
150.370	301 KAR 002:178
	301 KAR 004:090
150.411	301 KAR 002:172
	301 KAR 004:090
150.412	301 KAR 002:030
150.445	301 KAR 001:152
	301 KAR 001:155
	301 KAR 001:410
150.450	301 KAR 001:132
	301 KAR 001:152
	301 KAR 001:155
	301 KAR 003:022
150.485	301 KAR 001:115
	301 KAR 001:132
	301 KAR 003:022
150.520	301 KAR 003:022
150.525	301 KAR 003:022
150.600	301 KAR 003:022
150.603	301 KAR 002:225
	301 KAR 003:022
150.605	301 KAR 003:091
150.620	301 KAR 001:201
	301 KAR 001:410
150.625	301 KAR 001:015
150.660	301 KAR 003:022
150.720	301 KAR 003:022
150.990	301 KAR 001:015
	301 KAR 001:152

KRS SECTION	REGULATION
	301 KAR 001:155
	301 KAR 001:201
	301 KAR 001:410
	301 KAR 002:132
	301 KAR 002:172
	301 KAR 002:178
	301 KAR 004:090
151.125	400 KAR 001:001
	400 KAR 001:090
151.140	400 KAR 003:140
151.182	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
151.184	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
151.297	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
151.990	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
154.22-010	103 KAR 018:180
	103 KAR 018:191
154.22-070	103 KAR 018:180
	103 KAR 018:191
154.23-010	103 KAR 018:180
	103 KAR 018:191
154.23-055	103 KAR 018:180
	103 KAR 018:191
154.24-010	103 KAR 018:180
	103 KAR 018:191
154.24-110	103 KAR 018:180
	103 KAR 018:191
154.25-010	103 KAR 018:180
154.25-040	103 KAR 018:180
154.26-010	103 KAR 018:180
154.26-100	103 KAR 018:180
154.28-010	103 KAR 018:180
	103 KAR 018:191
154.28-110	103 KAR 018:180
	103 KAR 018:191
154.32-010	103 KAR 018:180
154.32-090	103 KAR 018:180
154A.020	202 KAR 003:040
154A.030	202 KAR 003:040
154A.050	202 KAR 003:040
154A.060	202 KAR 003:010
	202 KAR 003:040
156.010	704 KAR 003:292
	704 KAR 003:365
156.031	704 KAR 007:081
156.035	704 KAR 003:292
	704 KAR 003:365
156.070	701 KAR 005:150
	702 KAR 007:065
	704 KAR 003:292
	704 KAR 003:303
	704 KAR 003:306
	704 KAR 008:010
	704 KAR 008:020
	704 KAR 008:030
	704 KAR 008:040
	704 KAR 008:050
	704 KAR 008:060
156.108	701 KAR 005:140
156.160	013 KAR 002:020
	701 KAR 005:140
	702 KAR 001:160
	704 KAR 003:303

KRS SECTION	REGULATION
	704 KAR 003:305
	704 KAR 003:306
	704 KAR 008:010
	704 KAR 008:020
	704 KAR 008:030
	704 KAR 008:040
	704 KAR 008:050
	704 KAR 008:060
156.162	704 KAR 003:306
156.496	922 KAR 001:565
156.501	702 KAR 001:160
156.502	702 KAR 001:160
156.850	704 KAR 008:010
157.605	704 KAR 007:081
157.606	704 KAR 007:081
157.3175	704 KAR 003:015
158.035	702 KAR 001:160
158.135	505 KAR 001:080
	922 KAR 001:310
	922 KAR 001:495
158.137	505 KAR 001:080
158.142	704 KAR 003:305
158.160	702 KAR 001:160
158.197	704 KAR 003:306
158.645	703 KAR 005:270
	704 KAR 003:305
	704 KAR 008:010
158.6451	013 KAR 002:020
	703 KAR 005:211
	703 KAR 005:270
	704 KAR 003:303
	704 KAR 003:305
	704 KAR 003:306
	704 KAR 008:010
	704 KAR 008:020
	704 KAR 008:030
	704 KAR 008:040
	704 KAR 008:050
	704 KAR 008:060
158.6453	013 KAR 002:020
	703 KAR 005:211
	703 KAR 005:270
	704 KAR 003:303
	704 KAR 008:020
	704 KAR 008:030
	704 KAR 008:040
	704 KAR 008:050
	704 KAR 008:060
158.6455	703 KAR 005:211
	703 KAR 005:270
158.838	702 KAR 001:160
158.860	703 KAR 005:211
160.107	701 KAR 005:140
160.290	704 KAR 003:303
	704 KAR 003:306
	704 KAR 008:010
	704 KAR 008:020
	704 KAR 008:030
	704 KAR 008:040
	704 KAR 008:050
	704 KAR 008:060
160.380	702 KAR 007:065
160.445	702 KAR 007:065
160.380	016 KAR 002:100
	016 KAR 009:040
161.010	016 KAR 002:100
161.020	016 KAR 002:100
	016 KAR 002:210
	016 KAR 003:090
	016 KAR 008:030
	016 KAR 009:040
161.027	016 KAR 003:090
161.028	016 KAR 003:090
	016 KAR 008:030

KRS SECTION	REGULATION
161.128	016 KAR 002:100
	016 KAR 002:210
	016 KAR 009:040
161.030	016 KAR 002:100
	016 KAR 002:210
	016 KAR 003:090
	016 KAR 008:030
	016 KAR 009:040
161.046	016 KAR 009:040
161.048	016 KAR 009:040
161.120	016 KAR 009:040
161.145	702 KAR 001:160
161.220	102 KAR 001:320
161.470	102 KAR 001:060
161.520	102 KAR 001:060
	102 KAR 001:168
161.655	102 KAR 001:163
161.700	102 KAR 001:060
	102 KAR 001:320
161.716	102 KAR 001:320
161.1211	016 KAR 008:030
164.001	013 KAR 002:020
164.020	013 KAR 002:020
164.030	013 KAR 002:020
164.2847	922 KAR 001:500
164.518	011 KAR 004:080
164.744	011 KAR 004:080
	011 KAR 005:145
164.748	011 KAR 004:080
164.753	011 KAR 004:080
	011 KAR 005:145
164.769	011 KAR 004:080
164.772	201 KAR 022:020
	201 KAR 022:040
	301 KAR 002:030
	815 KAR 035:060
164.780	011 KAR 004:080
164.785	011 KAR 004:080
164.6901 - 164.6935	200 KAR 030:011
	830 KAR 002:001
164.6907	830 KAR 002:010
164.6909	830 KAR 002:010
164.6911	830 KAR 002:010
164.6913 - 164.6933	830 KAR 002:020
164.6915	830 KAR 002:010
164.7535	011 KAR 004:080
	011 KAR 005:145
164.7871 - 164.7885	011 KAR 015:010
	011 KAR 015:110
164.7889	011 KAR 005:145
164.7890	011 KAR 004:080
164.7894	011 KAR 004:080
165A	815 KAR 006:040
176.090-176.110	603 KAR 002:015
176.130-176-220	603 KAR 002:015
186.010	601 KAR 002:030
186.401	500 KAR 015:010
186.440	601 KAR 002:030
186.442	601 KAR 002:030
186.450	500 KAR 015:010
186.480	601 KAR 002:030
186.531	500 KAR 015:010
	601 KAR 002:030
186.535	500 KAR 015:010
186.560	601 KAR 002:030
186.570	601 KAR 002:030
186.655	603 KAR 005:070
189.125	922 KAR 001:310
189.222	603 KAR 005:070
189A.005	601 KAR 002:030
189A.010	601 KAR 002:030
189A.040	601 KAR 002:030
189A.070	601 KAR 002:030
189A.085	601 KAR 002:030

KRS SECTION	REGULATION
189A.090	601 KAR 002:030
189A.103	601 KAR 002:030
189A.105	601 KAR 002:030
189A.107	601 KAR 002:030
189A.200	601 KAR 002:030
189A.240	601 KAR 002:030
189A.250	601 KAR 002:030
189A.340	601 KAR 002:030
189A.345	601 KAR 002:030
189A.400	601 KAR 002:030
189A.410	601 KAR 002:030
189A.420	601 KAR 002:030
189A.440	601 KAR 002:030
189A.500	601 KAR 002:030
194A	921 KAR 002:015
194A.005	902 KAR 100:022
	902 KAR 100:070
	902 KAR 100:142
	922 KAR 001:140
	922 KAR 001:350
	922 KAR 001:400
	922 KAR 001:495
	922 KAR 001:565
194A.025	907 KAR 001:563
194A.030	900 KAR 009:010
	911 KAR 001:020
	911 KAR 001:071
194A.050	900 KAR 010:021
	902 KAR 019:010
	902 KAR 045:065
	902 KAR 045:070
	902 KAR 050:101
	902 KAR 050:110
	922 KAR 001:350
	922 KAR 001:400
	922 KAR 001:495
	922 KAR 001:565
194A.060	907 KAR 003:170
	910 KAR 001:240
	922 KAR 001:100
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:560
	922 KAR 002:160
194A.125	907 KAR 003:170
194A.700	902 KAR 020:036
194A.700-729	501 KAR 006:020
	910 KAR 001:240
197	501 KAR 006:020
198B.010	815 KAR 007:070
	815 KAR 007:120
	815 KAR 007:125
198B.040	815 KAR 007:070
	815 KAR 007:120
	815 KAR 007:125
198B.050	815 KAR 007:070
	815 KAR 007:120
	815 KAR 007:125
	815 KAR 035:020
198B.060	815 KAR 007:070
	815 KAR 007:120
	815 KAR 007:125
	815 KAR 035:015
198B.080	815 KAR 007:120
	815 KAR 007:125
198B.090	815 KAR 002:010
	815 KAR 002:020
	815 KAR 007:070
	815 KAR 035:015
198B.095	815 KAR 002:010
	815 KAR 002:020
	815 KAR 007:070
198B.260	815 KAR 007:120
	815 KAR 007:125

KRS SECTION	REGULATION
	902 KAR 020:260
	908 KAR 001:374
198B.4003	815 KAR 004:030
198B.4009	815 KAR 002:010
	815 KAR 002:020
	815 KAR 004:030
	815 KAR 004:071
198B.4011	815 KAR 002:010
	815 KAR 004:030
198B.4013	815 KAR 002:010
	815 KAR 004:030
198B.4023	815 KAR 002:010
	815 KAR 002:020
	815 KAR 004:030
198B.4025	815 KAR 002:010
	815 KAR 002:020
	815 KAR 004:030
198B.4027	815 KAR 004:030
198B.4033	815 KAR 004:030
198B.4037	815 KAR 002:040
198B.615	815 KAR 002:040
198B.6405	815 KAR 002:010
198B.6409	815 KAR 002:010
	815 KAR 002:020
	815 KAR 022:011
	815 KAR 025:081
198B.645	815 KAR 002:010
198B.650	815 KAR 008:010
198B.654	815 KAR 002:010
	815 KAR 002:020
	815 KAR 008:010
	815 KAR 008:091
198B.656	815 KAR 008:010
	815 KAR 008:030
198B.658	815 KAR 002:010
	815 KAR 008:010
	815 KAR 008:030
	815 KAR 008:091
198B.659	815 KAR 008:010
198B.6504	815 KAR 002:020
198B.660	815 KAR 002:010
	815 KAR 008:010
	815 KAR 008:030
198B.662	815 KAR 008:030
198B.664	815 KAR 002:010
	815 KAR 002:020
	815 KAR 008:010
	815 KAR 008:030
198B.668	815 KAR 008:010
198B.670	815 KAR 002:030
198B.672	815 KAR 002:010
	815 KAR 008:010
198B.676	815 KAR 002:040
	815 KAR 008:010
198B.684	815 KAR 002:020
198B.700	815 KAR 006:001
	815 KAR 006:010
198B.706	815 KAR 006:001
	815 KAR 006:010
	815 KAR 006:030
	815 KAR 006:040
	815 KAR 006:101
198B.712	815 KAR 006:010
	815 KAR 006:030
	815 KAR 006:040
198B.714	815 KAR 006:010
198B.716	815 KAR 006:010
198B.722	815 KAR 006:010
	815 KAR 006:030
	815 KAR 006:040
198B.724	815 KAR 006:010
	815 KAR 006:040
198B.728	815 KAR 006:030
198B.730	815 KAR 006:030

KRS SECTION	REGULATION
198B.738	815 KAR 006:010
198B.990	815 KAR 007:120
	815 KAR 007:125
199.011	922 KAR 001:010
	922 KAR 001:100
	922 KAR 001:140
	922 KAR 001:305
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:360
	922 KAR 001:400
	922 KAR 001:495
	922 KAR 001:530
	922 KAR 001:560
	922 KAR 001:565
199.430	922 KAR 001:100
	922 KAR 001:310
199.462	922 KAR 001:140
	922 KAR 001:565
199.464	922 KAR 001:495
199.467	922 KAR 001:140
199.470	922 KAR 001:010
	922 KAR 001:310
199.470-199.590	922 KAR 001:565
199.472	922 KAR 001:350
	922 KAR 001:495
199.473	922 KAR 001:010
199.474	922 KAR 001:010
199.480	922 KAR 001:010
	922 KAR 001:560
199.490	922 KAR 001:010
199.492	922 KAR 001:010
	922 KAR 001:310
199.493	922 KAR 001:010
	922 KAR 001:310
199.500	922 KAR 001:010
	922 KAR 001:060
199.502	922 KAR 001:060
199.505	922 KAR 001:560
199.510	922 KAR 001:010
	922 KAR 001:310
199.520	922 KAR 001:010
	922 KAR 001:100
	922 KAR 001:310
199.525	922 KAR 001:100
199.540	922 KAR 001:010
199.555	101 KAR 003:045
	922 KAR 001:050
	922 KAR 001:060
	922 KAR 001:140
199.557	922 KAR 001:060
	922 KAR 001:140
199.570	922 KAR 001:010
	922 KAR 001:100
	922 KAR 001:310
199.572	922 KAR 001:010
	922 KAR 001:100
	922 KAR 001:310
199.575	922 KAR 001:100
199.590	922 KAR 001:010
	922 KAR 001:310
199.640	922 KAR 001:305
	922 KAR 001:310
	922 KAR 001:495
199.645	922 KAR 001:310
199.670	922 KAR 001:305
199.640 - 199.680	922 KAR 001:360
199.650 - 199.670	922 KAR 001:310
199.801	922 KAR 001:360
	922 KAR 001:140
199.892	921 KAR 002:055
	922 KAR 002:160
199.894	922 KAR 002:160
199.8943	704 KAR 003:015

KRS SECTION	REGULATION
199.896	922 KAR 002:160
199.898	922 KAR 002:160
199.8982	922 KAR 002:160
199.899	922 KAR 002:160
199.8994	922 KAR 002:160
199.990	922 KAR 001:010
199.640	922 KAR 001:305
	922 KAR 001:560
200.080 - 200.120	505 KAR 001:100
	505 KAR 001:110
	505 KAR 001:180
	505 KAR 001:190
200.460	911 KAR 001:010
	911 KAR 001:060
200.470	911 KAR 001:010
	911 KAR 001:020
200.575	922 KAR 001:411
200.654	911 KAR 001:010
202A.011	902 KAR 020:036
	921 KAR 002:015
	922 KAR 001:350
202B.010	922 KAR 001:100
205.175	907 KAR 001:075
205.200	922 KAR 001:400
205.211	921 KAR 002:055
	922 KAR 001:565
205.231	907 KAR 001:075
	907 KAR 001:560
	907 KAR 001:563
	921 KAR 002:055
	921 KAR 003:060
	921 KAR 003:070
205.237	907 KAR 001:075
	907 KAR 001:560
	907 KAR 001:563
	921 KAR 002:055
205.245	921 KAR 002:015
205.455	910 KAR 001:090
205.510	907 KAR 003:170
205.520	895 KAR 001:001
	895 KAR 001:010
	895 KAR 001:015
	895 KAR 001:020
	895 KAR 001:025
	895 KAR 001:030
	895 KAR 001:035
	895 KAR 001:040
	895 KAR 001:045
	895 KAR 001:050
	895 KAR 001:055
	907 KAR 001:005
	907 KAR 001:121
	907 KAR 001:270
	907 KAR 001:280
	907 KAR 001:330
	907 KAR 001:360
	907 KAR 001:441
	907 KAR 001:560
	907 KAR 001:563
	907 KAR 008:040
205.531	907 KAR 001:560
205.558	907 KAR 001:755
205.559	907 KAR 003:170
205.560	907 KAR 001:121
	907 KAR 001:270
	907 KAR 001:280
	907 KAR 001:360
	907 KAR 001:604
	907 KAR 003:170
205.565	907 KAR 010:820
205.622	895 KAR 001:035
	907 KAR 008:040
205.637	907 KAR 010:820
205.639	907 KAR 010:820

KRS SECTION	REGULATION
	922 KAR 001:050
205.640	907 KAR 010:820
205.641	907 KAR 010:820
205.703	922 KAR 001:400
205.705	921 KAR 001:380
205.712	601 KAR 002:030
205.710 - 205.800	921 KAR 001:380
205.900 - 205.925	910 KAR 001:090
205.992	921 KAR 001:380
205.2005	921 KAR 003:025
205.6312	907 KAR 001:604
205.6328	900 KAR 001:091
205.6485	907 KAR 001:604
205.8451	895 KAR 001:001
	907 KAR 001:563
	907 KAR 001:604
209A.020	922 KAR 001:400
209.020	910 KAR 002:020
	921 KAR 002:015
	922 KAR 001:400
209.030	902 KAR 020:036
	902 KAR 020:300
	908 KAR 001:370
	910 KAR 001:240
209.032	902 KAR 020:036
	902 KAR 020:300
209.130	922 KAR 001:400
210.270	907 KAR 001:075
	907 KAR 001:563
210.290	910 KAR 002:020
210.366	201 KAR 026:175
211.005	902 KAR 045:065
	902 KAR 045:070
211.015	902 KAR 045:065
	902 KAR 045:070
211.025	902 KAR 010:051
	902 KAR 045:065
	902 KAR 045:070
211.090	902 KAR 010:051
	902 KAR 047:071
211.180	902 KAR 008:165
	902 KAR 008:170
	902 KAR 010:051
	902 KAR 019:010
	902 KAR 047:071
	902 KAR 100:022
	902 KAR 100:070
	902 KAR 100:100
	902 KAR 100:142
211.350	815 KAR 035:015
	815 KAR 035:020
211.461	907 KAR 001:560
211.466	907 KAR 001:560
211.651	902 KAR 019:010
211.655	902 KAR 019:010
211.660	902 KAR 019:010
211.670	902 KAR 019:010
211.760	902 KAR 045:065
211.842 - 211.852	902 KAR 020:275
	902 KAR 100:018
	902 KAR 100:022
	902 KAR 100:052
	902 KAR 100:070
	902 KAR 100:072
	902 KAR 100:100
	902 KAR 100:142
211.990	902 KAR 100:018
	902 KAR 100:022
	902 KAR 100:052
	902 KAR 100:070
	902 KAR 100:072
	902 KAR 100:100
	902 KAR 100:142
212.025	902 KAR 008:170

KRS SECTION	REGULATION
212.120	902 KAR 008:170
212.230	902 KAR 008:165
212.240	902 KAR 008:165
212.245	902 KAR 008:165
	902 KAR 008:170
212.890	902 KAR 008:165
	902 KAR 008:170
213.046	921 KAR 001:380
214.034	702 KAR 001:160
214.036	702 KAR 001:160
	922 KAR 002:160
214.181	908 KAR 001:370
214.625	908 KAR 001:370
216.300	910 KAR 001:240
216.380	907 KAR 010:820
216.510 - 216.525	900 KAR 002:040
	902 KAR 020:036
	902 KAR 020:300
216.530	902 KAR 020:008
	921 KAR 002:015
216.532	902 KAR 020:036
	902 KAR 020:300
216.535	902 KAR 020:300
216.537 - 216.590	900 KAR 002:021
216.540	902 KAR 020:300
216.543	902 KAR 020:300
216.545	902 KAR 020:300
216.547	902 KAR 020:300
216.555 - 216.567	900 KAR 002:040
216.557	921 KAR 002:015
216.577	900 KAR 002:040
216.595	910 KAR 001:240
216.750	921 KAR 002:015
216.765	902 KAR 020:036
	921 KAR 002:015
216.785 - 216.793	902 KAR 020:036
	902 KAR 020:300
216.789	910 KAR 001:240
216.793	910 KAR 001:240
216.860	906 KAR 001:071
216.865	906 KAR 001:071
216.900 - 216.915	906 KAR 001:071
216.930	906 KAR 001:071
216.2920	900 KAR 007:030
216.2925	900 KAR 007:030
	902 KAR 020:008
216.2927	900 KAR 007:030
216A.010	900 KAR 002:040
216A.080	902 KAR 020:036
216B	902 KAR 019:010
	921 KAR 002:015
216B.010	900 KAR 006:075
	902 KAR 020:008
216B.010 - 216B.130	900 KAR 005:020
	902 KAR 020:036
216B.010 - 216B.131	902 KAR 020:260
216B.010 - 216B.170	902 KAR 020:275
216B.015	900 KAR 006:075
	902 KAR 020:008
	902 KAR 020:111
216B.020	902 KAR 020:008
	902 KAR 020:076
	902 KAR 020:251
	908 KAR 001:370
216B.040	900 KAR 006:020
	902 KAR 020:008
216B.042	902 KAR 020:008
216B.045 - 216B.055	902 KAR 020:008
216B.075	902 KAR 020:008
216B.090	900 KAR 006:075
216B.105 - 216B.131	902 KAR 020:008
216B.176	902 KAR 020:401
216B.177	902 KAR 020:401
216B.185	902 KAR 020:008

KRS SECTION	REGULATION
216B.400	201 KAR 020:411
216B.450	922 KAR 001:050
216B.455	900 KAR 006:075
216B.990	900 KAR 006:075
	902 KAR 020:008
	902 KAR 020:036
	902 KAR 020:260
	902 KAR 020:275
216C.010	900 KAR 011:010
216C.030	900 KAR 011:010
216C.040	900 KAR 011:010
216C.050	900 KAR 011:010
216C.060	900 KAR 011:010
216C.070	900 KAR 011:010
216C.080	900 KAR 011:010
216C.090	900 KAR 011:010
216C.100	900 KAR 011:010
216C.110	900 KAR 011:010
216C.120	900 KAR 011:010
216C.160	900 KAR 011:010
216C.170	900 KAR 011:010
216C.180	900 KAR 011:010
216C.200	900 KAR 011:010
216C.210	900 KAR 011:010
216C.220	900 KAR 011:010
216C.230	900 KAR 011:010
217.005	902 KAR 045:007
217.005 - 217.205	902 KAR 045:005
	902 KAR 045:160
217.005 - 217.215	902 KAR 045:090
217.015	301 KAR 001:155
217.127	902 KAR 045:007
217.280 - 217.390	902 KAR 045:005
217.290	902 KAR 045:090
217.290 - 217.390	902 KAR 045:160
217.801	902 KAR 047:071
217.920-928	902 KAR 045:075
217.990 - 217.992	902 KAR 045:005
	902 KAR 045:160
217.992	902 KAR 045:090
217B	302 KAR 027:010
	302 KAR 027:020
	302 KAR 027:031
	302 KAR 027:040
	302 KAR 027:050
	302 KAR 028:010
	302 KAR 028:020
	302 KAR 028:030
	302 KAR 028:040
	302 KAR 028:050
	302 KAR 029:020
217B.120	302 KAR 027:060
	302 KAR 028:060
217B.500 - 217B.900	902 KAR 045:090
217C.010 - 217.C.990	902 KAR 050:110
217C.040	902 KAR 050:101
218A.205	201 KAR 020:056
	201 KAR 020:161
	201 KAR 020:215
218A.160	902 KAR 055:011
218A.172	201 KAR 009:260
	201 KAR 020:057
218A.175	902 KAR 020:260
218A.180	908 KAR 001:341
	908 KAR 001:374
218A.202	908 KAR 001:374
218A.205	201 KAR 009:260
	201 KAR 020:057
	902 KAR 020:260
218A.420	500 KAR 009:011
218A.435	500 KAR 009:011
219.310 - 219.410	815 KAR 025:040
	902 KAR 015:010
219.991	902 KAR 015:010

KRS SECTION	REGULATION
222	908 KAR 001:341
222.003	908 KAR 001:370
222.005	908 KAR 001:370
222.231	908 KAR 001:370
	908 KAR 001:372
	908 KAR 001:374
222.271	908 KAR 001:370
222.441	908 KAR 001:370
222.462	908 KAR 001:370
	908 KAR 001:374
222.990	908 KAR 001:370
223	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
224	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:100
224.01-110	400 KAR 004:125
224.1	401 KAR 042:005
	401 KAR 042:020
	401 KAR 042:060
	401 KAR 042:341
224.1-010	401 KAR 005:002
224.1-070	401 KAR 005:002
224.1-400	401 KAR 005:002
	401 KAR 039:060
	401 KAR 042:060
	401 KAR 042:250
224.1-405	401 KAR 042:250
224.10	401 KAR 039:060
	401 KAR 039:080
	401 KAR 039:090
	401 KAR 040:051
	401 KAR 042:005
	401 KAR 042:020
	401 KAR 042:060
	401 KAR 042:341
224.10-100	401 KAR 052:050
	401 KAR 052:070
224.10-240	400 KAR 004:125
224.10-410	400 KAR 001:110
	401 KAR 042:250
224.10-420	401 KAR 042:250
224.10-430	401 KAR 042:250
224.10-440	401 KAR 042:250
	400 KAR 004:125
224.10-470	401 KAR 042:250
	400 KAR 004:125
224.20-100	401 KAR 052:050
	401 KAR 052:070
224.20-110	401 KAR 052:050
	401 KAR 052:070
224.20-120	401 KAR 052:050
	401 KAR 052:070
224.40	401 KAR 042:060
	401 KAR 042:341
224.40-310	401 KAR 039:060
224.43	401 KAR 042:060
	401 KAR 042:341
224.46	401 KAR 039:060
	401 KAR 039:080
	401 KAR 039:090
	401 KAR 040:051
	401 KAR 042:060
	401 KAR 042:341
224.50-130	401 KAR 039:090
224.60	401 KAR 042:005
	401 KAR 042:020
	401 KAR 042:060
	401 KAR 042:341
224.60-105	401 KAR 042:330
224.60-110	401 KAR 042:250

KRS SECTION	REGULATION
224.60-120	401 KAR 042:250
224.60-130	401 KAR 042:250
	401 KAR 042:330
224.60-135	401 KAR 042:250
224.60-140	401 KAR 042:250
	401 KAR 042:330
224.60-150	401 KAR 042:250
	401 KAR 042:330
224.70-100	401 KAR 005:002
224.70-120	401 KAR 005:002
224.99	401 KAR 039:060
	401 KAR 039:080
	401 KAR 039:090
	401 KAR 040:051
224.99-010	401 KAR 005:002
	401 KAR 040:051
224.99-020	401 KAR 040:051
224.99-030	401 KAR 040:051
227.300	815 KAR 007:120
227.450	815 KAR 035:015
227.460	815 KAR 035:020
227.480	815 KAR 035:015
	815 KAR 035:020
227.487	815 KAR 035:020
227.489	815 KAR 035:015
227.491	815 KAR 035:015
	815 KAR 035:020
227.492	815 KAR 035:015
227.495	815 KAR 035:015
227.550	815 KAR 007:120
	815 KAR 025:050
	815 KAR 025:060
	815 KAR 025:090
	815 KAR 025:100
227.550 - 227.660	815 KAR 025:020
227.550 - 227.665	815 KAR 025:001
227.555	815 KAR 025:050
227.560	815 KAR 025:060
227.570	815 KAR 002:010
	815 KAR 002:020
	815 KAR 025:050
	815 KAR 025:060
	815 KAR 025:090
	902 KAR 015:010
227.580	815 KAR 025:050
	815 KAR 025:060
227.590	815 KAR 002:010
	815 KAR 002:020
	815 KAR 025:040
	815 KAR 025:050
	815 KAR 025:060
	815 KAR 025:090
227.600	815 KAR 025:050
	815 KAR 025:060
227.610	815 KAR 025:060
227.620	815 KAR 025:060
227.630	815 KAR 025:060
227.640	815 KAR 025:100
227.660	815 KAR 025:090
227.990	815 KAR 025:050
	815 KAR 025:060
	815 KAR 025:090
227.992	815 KAR 025:050
227A.010	815 KAR 035:060
227A.020	815 KAR 002:030
227A.040	815 KAR 002:010
	815 KAR 002:020
	815 KAR 035:080
	815 KAR 035:090
	815 KAR 035:101
227A.060	815 KAR 035:060
	815 KAR 035:080
	815 KAR 035:090
227A.100	815 KAR 002:010
	815 KAR 002:020
	815 KAR 035:060
227A.110	815 KAR 035:080
229.011	201 KAR 027:005
229.025	201 KAR 027:008
229.031	201 KAR 027:005
	201 KAR 027:011
	201 KAR 027:016
	201 KAR 027:020
229.035	201 KAR 027:008
229.055	201 KAR 027:011
229.065	201 KAR 027:008
229.111	201 KAR 027:005
	201 KAR 027:011
	201 KAR 027:016
229.131	201 KAR 027:005
	201 KAR 027:011
	201 KAR 027:016
229.155	201 KAR 027:005
	201 KAR 027:011
229.171	201 KAR 027:005
	201 KAR 027:008
	201 KAR 027:011
	201 KAR 027:016
	201 KAR 027:020
	201 KAR 027:022
230.210	810 KAR 006:020
	810 KAR 008:050
230.215	810 KAR 002:001
	810 KAR 002:020
	810 KAR 002:030
	810 KAR 002:040
	810 KAR 002:050
	810 KAR 002:060
	810 KAR 002:070
	810 KAR 002:080
	810 KAR 003:010
	810 KAR 003:020
	810 KAR 004:010
	810 KAR 004:020
	810 KAR 004:030
	810 KAR 004:040
	810 KAR 004:050
	810 KAR 004:060
	810 KAR 004:070
	810 KAR 004:080
	810 KAR 004:090
	810 KAR 004:100
	810 KAR 005:010
	810 KAR 005:020
	810 KAR 005:030
	810 KAR 004:040
	810 KAR 005:050
	810 KAR 005:060
	810 KAR 005:070
	810 KAR 005:080
	810 KAR 006:020
	810 KAR 007:020
	810 KAR 007:030
	810 KAR 007:040
	810 KAR 007:060
	810 KAR 007:070
	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:030
	810 KAR 008:040
	810 KAR 008:050
	810 KAR 008:060
	810 KAR 009:010
230.218	810 KAR 007:010
230.225	810 KAR 001:301
	810 KAR 003:030
	810 KAR 007:030
	810 KAR 007:060

KRS SECTION	REGULATION
	810 KAR 007:070
	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:040
	811 KAR 001:301
	811 KAR 002:301
230.230	810 KAR 002:010
230.240	810 KAR 002:010
	810 KAR 002:020
	810 KAR 002:050
	810 KAR 004:030
	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:040
	810 KAR 008:050
	810 KAR 008:060
230.445	810 KAR 007:060
	810 KAR 007:070
230.260	810 KAR 002:001
	810 KAR 002:020
	810 KAR 002:030
	810 KAR 002:050
	810 KAR 002:060
	810 KAR 002:070
	810 KAR 002:080
	810 KAR 003:010
	810 KAR 003:020
	810 KAR 003:030
	810 KAR 003:040
	810 KAR 004:020
	810 KAR 004:040
	810 KAR 004:050
	810 KAR 004:060
	810 KAR 004:070
	810 KAR 004:090
	810 KAR 004:100
	810 KAR 005:010
	810 KAR 005:020
	810 KAR 005:030
	810 KAR 005:050
	810 KAR 005:060
	810 KAR 005:070
	810 KAR 005:080
	810 KAR 006:020
	810 KAR 007:040
	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:030
	810 KAR 008:040
	810 KAR 008:050
	810 KAR 008:060
230.265	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:030
	810 KAR 008:060
230.280	810 KAR 003:010
	810 KAR 003:020
	810 KAR 005:070
	810 KAR 005:080
230.290	810 KAR 002:030
	810 KAR 002:050
	810 KAR 003:010
	810 KAR 003:020
	810 KAR 003:030
	810 KAR 003:040
	810 KAR 004:030
	810 KAR 004:090
	810 KAR 004:100
	810 KAR 005:070
	810 KAR 005:080
	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:030
	810 KAR 008:040

KRS SECTION	REGULATION
	810 KAR 008:050
	810 KAR 008:060
230.300	810 KAR 003:010
	810 KAR 003:020
	810 KAR 003:030
	810 KAR 005:070
	810 KAR 008:030
	810 KAR 008:040
230.310	810 KAR 002:030
	810 KAR 002:050
	810 KAR 003:020
	810 KAR 003:030
	810 KAR 003:040
	810 KAR 004:030
	810 KAR 004:090
	810 KAR 004:100
	810 KAR 005:040
	810 KAR 005:070
	810 KAR 005:080
	810 KAR 008:030
	810 KAR 008:040
	810 KAR 009:010
230.320	810 KAR 002:030
	810 KAR 003:010
	810 KAR 003:020
	810 KAR 003:030
	810 KAR 003:040
	810 KAR 004:030
	810 KAR 004:090
	810 KAR 004:100
	810 KAR 005:070
	810 KAR 007:070
	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:030
	810 KAR 008:040
	810 KAR 008:050
	810 KAR 008:060
	810 KAR 009:010
230.330	810 KAR 007:020
	810 KAR 007:070
	810 KAR 009:010
230.361	810 KAR 003:030
	810 KAR 004:080
	810 KAR 006:020
	810 KAR 008:030
230.3615	810 KAR 006:020
230.370	810 KAR 003:030
	810 KAR 008:010
	810 KAR 008:020
	810 KAR 008:040
230.377	810 KAR 003:050
230.380	810 KAR 003:030
	810 KAR 003:050
230.400	810 KAR 007:030
	810 KAR 007:070
230.443	810 KAR 007:060
230.770	810 KAR 007:040
	810 KAR 007:070
230.800	810 KAR 007:020
	810 KAR 007:070
230.802	810 KAR 007:040
	810 KAR 007:070
230.804	810 KAR 007:070
230.990	810 KAR 006:020
	810 KAR 007:040
230.398	810 KAR 005:080
235.010	301 KAR 001:015
235.990	301 KAR 001:015
236.097	815 KAR 015:080
236.210	815 KAR 015:080
237.110	301 KAR 002:172
241.010	804 KAR 005:080
241.060	804 KAR 011:031

KRS SECTION	REGULATION
243.020	804 KAR 008:050
243.0307	804 KAR 001:110
243.036	804 KAR 001:110
243.130	804 KAR 001:070
243.150	804 KAR 001:070
243.170	804 KAR 001:070
243.180	804 KAR 001:070
243.232	804 KAR 005:080
243.260	804 KAR 001:110
243.340	804 KAR 001:070
243.390	804 KAR 004:011
243.480	804 KAR 007:020
243.490	804 KAR 007:020
	804 KAR 007:031
243.500	804 KAR 007:020
	804 KAR 007:031
243.540	804 KAR 007:020
243.630	804 KAR 004:011
244.085	804 KAR 007:020
244.090	804 KAR 005:021
244.130	804 KAR 001:030
	804 KAR 002:016
244.240	804 KAR 001:070
	804 KAR 001:110
	804 KAR 005:021
244.590	804 KAR 001:070
	804 KAR 001:110
244.600	804 KAR 005:021
246.210	302 KAR 020:221
247	302 KAR 001:011
	302 KAR 077:011
250.491 - 250.631	012 KAR 002:006
	012 KAR 002:011
	012 KAR 002:016
	012 KAR 002:017
	012 KAR 002:018
	012 KAR 002:021
	012 KAR 002:026
	012 KAR 002:036
	012 KAR 002:056
	012 KAR 003:007
	012 KAR 003:032
250.501	012 KAR 002:031
	012 KAR 002:041
	012 KAR 002:046
	012 KAR 002:051
	012 KAR 002:061
	012 KAR 003:012
	012 KAR 003:017
	012 KAR 003:022
	012 KAR 003:027
	012 KAR 003:028
	012 KAR 003:037
	012 KAR 003:039
	012 KAR 003:042
250.511	012 KAR 002:041
	012 KAR 002:051
	012 KAR 002:061
	012 KAR 003:037
250.521	012 KAR 002:061
	012 KAR 003:012
	012 KAR 003:017
	012 KAR 003:022
	012 KAR 003:027
	012 KAR 003:028
	012 KAR 003:039
	012 KAR 003:042
250.531	012 KAR 002:031
	012 KAR 003:017
250.541	012 KAR 002:041
	012 KAR 002:051
	012 KAR 002:046
	012 KAR 002:066
	012 KAR 003:037

KRS SECTION	REGULATION
250.551	012 KAR 002:031
	012 KAR 002:046
	012 KAR 002:051
250.561	012 KAR 002:061
250.581	012 KAR 002:051
257	302 KAR 020:211
	302 KAR 020:231
	302 KAR 020:541
	302 KAR 020:581
257.020	302 KAR 020:561
	302 KAR 020:571
257.030	302 KAR 020:561
	302 KAR 020:571
257.040	302 KAR 020:571
257.050	302 KAR 020:221
	302 KAR 020:571
257.080	302 KAR 020:221
257.110	302 KAR 020:561
257.120	302 KAR 020:561
257.110 - 257.170	302 KAR 020:221
257.140	302 KAR 020:561
257.480	302 KAR 020:221
258.005	902 KAR 002:070
258.015	902 KAR 002:070
	922 KAR 001:310
	922 KAR 001:350
258.035	902 KAR 002:070
	922 KAR 001:310
	922 KAR 001:350
258.043	902 KAR 002:070
258.085	902 KAR 002:070
258.990	902 KAR 002:070
260.850 - 260.869	302 KAR 050:080
	302 KAR 050:090
262.902	302 KAR 100:011
	302 KAR 100:021
262.904	302 KAR 100:011
	302 KAR 100:021
262.908	302 KAR 100:011
	302 KAR 100:021
273.161	922 KAR 001:310
278	807 KAR 005:056
286	808 KAR 014:010
286.3-010	808 KAR 001:140
	808 KAR 001:161
286.3-020	808 KAR 001:140
	808 KAR 001:161
286.3-050	808 KAR 001:140
	808 KAR 001:161
286.3-095	808 KAR 001:140
	808 KAR 001:161
	808 KAR 011:021
	808 KAR 015:040
286.3-135	808 KAR 001:140
286.3-102	808 KAR 001:161
	808 KAR 015:030
286.3-135	808 KAR 001:161
286.3-140	808 KAR 001:140
	808 KAR 001:161
286.3-145	808 KAR 001:140
	808 KAR 001:161
286.3-146	808 KAR 001:140
	808 KAR 001:161
286.3-170	808 KAR 001:140
	808 KAR 001:161
286.3-172	808 KAR 001:140
	808 KAR 001:161
286.3-174	808 KAR 001:140
	808 KAR 001:161
286.3-180	808 KAR 001:060
	808 KAR 001:140
	808 KAR 001:161
	808 KAR 015:030
286.3-185	808 KAR 001:161

KRS SECTION	REGULATION
	808 KAR 015:030
286.3-280	808 KAR 001:161
	808 KAR 015:010
286.3-290	808 KAR 001:161
	808 KAR 015:010
286.3-300	808 KAR 001:161
	808 KAR 015:010
286.3-375	808 KAR 001:161
286.3-450	808 KAR 001:140
	808 KAR 001:161
286.3-480	808 KAR 001:140
	808 KAR 001:161
286.3-530	808 KAR 001:140
	808 KAR 001:161
286.3-690	808 KAR 001:161
	808 KAR 015:020
286.3-820	808 KAR 001:140
	808 KAR 001:161
	808 KAR 015:030
286.3-905	808 KAR 011:021
	808 KAR 015:040
5286.3-920	808 KAR 001:140
	808 KAR 001:161
286.4	808 KAR 001:170
	808 KAR 006:095
286.4-460	808 KAR 006:095
286.4-490	808 KAR 006:095
286.4-590	808 KAR 014:020
286.5-061	808 KAR 001:060
286.6-055	808 KAR 001:060
286.6-070	808 KAR 003:061
286.6-095	808 KAR 003:050
286.6-100	808 KAR 003:050
	808 KAR 003:061
286.6-225	808 KAR 003:050
286.6-585	808 KAR 003:050
286.6-095	808 KAR 003:050
286.6-405	808 KAR 003:061
286.7	808 KAR 003:061
286.8	808 KAR 012:111
286.8-010	808 KAR 012:055
286.8-020	808 KAR 001:170
286.8-030	808 KAR 001:170
286.8-036	808 KAR 001:170
286.8-070	808 KAR 001:170
286.8-080	808 KAR 001:170
286.8-090	808 KAR 001:170
286.8-120	808 KAR 012:050
286.8-150	808 KAR 001:180
286.8-225	808 KAR 001:180
286.8-227	808 KAR 001:180
286.8-255	808 KAR 012:055
286.8-260	808 KAR 001:170
286.8-290	808 KAR 001:170
286.9-010	808 KAR 001:170
	808 KAR 009:010
	808 KAR 009:050
286.9-020	808 KAR 001:170
	808 KAR 009:050
286.9-030	808 KAR 001:170
	808 KAR 009:050
286.9-040	808 KAR 001:170
	808 KAR 009:040
	808 KAR 009:050
286.9-050	808 KAR 001:170
	808 KAR 009:050
286.9-060	808 KAR 001:170
	808 KAR 009:050
286.9-070	808 KAR 009:050
286.9-071	808 KAR 001:170
	808 KAR 009:050
286.9-073	808 KAR 001:170
	808 KAR 009:050
286.9-075	808 KAR 009:010

KRS SECTION	REGULATION
	808 KAR 009:050
286.9-080	808 KAR 001:170
286.9-090	808 KAR 009:031
286.9-100	808 KAR 009:010
	808 KAR 009:040
286.9-104	808 KAR 009:050
286.9-120	808 KAR 009:031
286.9-140	808 KAR 009:010
290.095	808 KAR 003:061
290.585	808 KAR 003:061
292.322	808 KAR 001:180
304.1-010	806 KAR 009:020
304.1-050	806 KAR 009:070
304.1-080	806 KAR 009:360
	806 KAR 017:091
304.1-070	806 KAR 010:030
	806 KAR 010:051
304.1-110	806 KAR 009:070
304.2-140	806 KAR 047:010
304.2-250	806 KAR 002:121
304.2-310	806 KAR 017:091
	806 KAR 017:570
304.3	806 KAR 002:121
304.3-150	806 KAR 002:092
304.3-240	806 KAR 017:570
304.3-270	103 KAR 015:180
304.4-010	806 KAR 009:001
	806 KAR 009:070
304.5-130	806 KAR 005:011
304.5-140	806 KAR 005:011
304.5-150	806 KAR 005:011
304.09	806 KAR 009:020
304.9-020	806 KAR 017:091
304.9-030	806 KAR 009:070
304.9-053	806 KAR 009:360
304.9-054	806 KAR 009:360
304.9-105	806 KAR 009:001
	806 KAR 009:061
	806 KAR 009:070
304.9-160	806 KAR 009:070
304.9-190	806 KAR 009:070
304.9-230	806 KAR 009:001
	806 KAR 009:070
304.9-320	806 KAR 009:070
304.9-390	806 KAR 009:061
304.9-430	806 KAR 009:070
304.9-432	806 KAR 009:061
304.9-505	806 KAR 009:070
304.10-030	806 KAR 010:030
	806 KAR 010:051
304.10-040	806 KAR 010:051
304.10-050	806 KAR 010:030
	806 KAR 010:051
304.10-060	806 KAR 010:051
304.10-070	806 KAR 010:051
304.10-120	806 KAR 002:121
304.10-160	806 KAR 010:051
304.10-170	806 KAR 010:030
304.10-180	806 KAR 010:030
304.11-010	806 KAR 005:011
304.11-030	401 KAR 039:090
304.11-050	806 KAR 005:011
304.12-013	806 KAR 017:091
304.12-020	806 KAR 017:570
304.12-130	806 KAR 009:020
304.12-190	806 KAR 017:091
304.14-020	806 KAR 017:091
304.14-120	806 KAR 017:020
	806 KAR 017:091
	806 KAR 017:570
304.14-135	900 KAR 007:030
304.14-140	806 KAR 017:091
304.14-150	806 KAR 017:091

KRS SECTION	REGULATION
304.14-180	806 KAR 017:091
304.14-210	806 KAR 017:091
304.14-360	806 KAR 017:091
304.14-430	806 KAR 017:091
304.14-440	806 KAR 017:091
304.14-450	806 KAR 017:091
304.15-020	806 KAR 009:310
	806 KAR 009:321
304.15-700	806 KAR 009:070
304.15-700 - 304.15-725	806 KAR 009:310
	806 KAR 009:321
304.17-030	806 KAR 017:091
304.17-042	806 KAR 017:091
304.17-070	806 KAR 017:091
304.17-310	806 KAR 017:091
304.17-311	806 KAR 017:570
304.17-313	806 KAR 017:091
304.17-319	806 KAR 017:091
304.17-415	806 KAR 017:091
304.17-3165	806 KAR 017:091
304.17A.005	806 KAR 017:091
	806 KAR 017:360
	806 KAR 017:570
304.17A-095 - 304.17A-0954	806 KAR 017:091
304.17A-096 - 304.17A-132	806 KAR 017:091
304.17A.132	806 KAR 017:091
304.17A.134	806 KAR 017:091
304.17A-135 - 304.17A-145	806 KAR 017:091
304.17A.139	806 KAR 017:091
304.17A.140	806 KAR 017:091
304.17A.142	806 KAR 017:091
304.17A-148 - 304.17A-149	806 KAR 017:091
304.17A.149	806 KAR 017:091
304.17A-150	806 KAR 017:300
304.17A.155	806 KAR 017:091
304.17A.171	806 KAR 017:091
304.17A.200	806 KAR 017:091
304.17A.230	806 KAR 017:091
304.17A.243	806 KAR 017:091
304.17A.245	806 KAR 017:091
304.17A.250	806 KAR 017:091
304.17A.258	806 KAR 017:091
304.17A-500	806 KAR 017:300
304.17A.520	806 KAR 017:091
304.17A-527	806 KAR 017:300
304.17A-530	806 KAR 017:300
304.17A-532	806 KAR 017:300
304.17A.540	806 KAR 017:091
304.17A.545	806 KAR 017:091
304.17A-560	806 KAR 017:300
304.17A-575	806 KAR 017:300
304.17A-577	806 KAR 017:300
304.17A-578	806 KAR 017:300
304.17A.647	806 KAR 017:091
304.17A-700	806 KAR 017:360
304.17A-702	806 KAR 017:360
304.17A-704	806 KAR 017:360
304.17A-706	806 KAR 017:360
304.17A-708	806 KAR 017:360
304.17A-720	806 KAR 017:360
304.17A-728	806 KAR 017:300
304.17A-730	806 KAR 017:360
304.17B.001 - 304.17B.033	806 KAR 017:091
304.17C-060	806 KAR 017:091
	806 KAR 017:300
304.17C-090	806 KAR 017:360
304.18-032	806 KAR 017:091
304.18-034	806 KAR 017:570
304.18-110	806 KAR 017:091
304.18-0365	806 KAR 017:091
304.18-0365 - 304.18-037	806 KAR 017:091
304.18-0985	806 KAR 017:091
304.24-420	806 KAR 005:011
304.32-153	806 KAR 017:091

KRS SECTION	REGULATION
304.32-275	806 KAR 017:570
304.32-280	806 KAR 017:091
304.32-1585	806 KAR 017:091
304.32-1595	806 KAR 017:091
304.33-030	806 KAR 017:570
304.38-199	806 KAR 017:091
304.38-205	806 KAR 017:570
304.38-210	806 KAR 017:091
304.38-240	907 KAR 003:170
304.38-1935 - 304.38-1937	806 KAR 017:091
304.38-1937	806 KAR 017:091
304.47-010	806 KAR 047:010
304.47-020	806 KAR 047:010
304.47-040	806 KAR 047:010
304.47-050	806 KAR 047:010
	806 KAR 047:021
304.47-080	806 KAR 047:010
	806 KAR 047:021
304.99	806 KAR 017:300
304.99-085	806 KAR 010:030
304.99-123	806 KAR 017:360
309.080	908 KAR 001:370
	908 KAR 001:372
309.130	908 KAR 001:370
309.0831	908 KAR 001:370
310.021	902 KAR 020:036
310.031	902 KAR 020:036
311	201 KAR 027:008
	902 KAR 020:260
	911 KAR 001:010
311.530 - 311.620	201 KAR 009:260
311.571	908 KAR 001:370
311.621	900 KAR 009:010
311.720	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:495
311.840	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:495
311.990	201 KAR 009:260
311A.010	202 KAR 007:520
	202 KAR 007:575
311A.030	202 KAR 007:520
	900 KAR 006:075
311A.032	202 KAR 007:575
311A.035	202 KAR 007:520
311A.050	202 KAR 007:520
311A.055	202 KAR 007:520
311A.060	202 KAR 007:520
311A.155	202 KAR 007:520
311A.190	202 KAR 007:520
311B.020	201 KAR 046:010
	201 KAR 046:030
	201 KAR 046:040
	201 KAR 046:081
311B.050	201 KAR 046:020
	201 KAR 046:030
	201 KAR 046:040
	201 KAR 046:045
	201 KAR 046:081
311B.080	201 KAR 046:030
311B.100	201 KAR 046:020
	201 KAR 046:040
	201 KAR 046:045
	201 KAR 046:081
311B.110	201 KAR 046:020
	201 KAR 046:040
	201 KAR 046:081
311B.120	201 KAR 046:020
	201 KAR 046:040
	201 KAR 046:045
	201 KAR 046:081
311B.130	201 KAR 046:020
311B.140	201 KAR 046:020

KRS SECTION	REGULATION
311B.180	201 KAR 046:020
	201 KAR 046:040
	201 KAR 046:045
	201 KAR 046:081
311B.190	201 KAR 046:020
	201 KAR 046:040
	201 KAR 046:045
	201 KAR 046:081
312.019	201 KAR 021:015
	201 KAR 021:045
312.021	201 KAR 021:045
312.085	201 KAR 021:041
	201 KAR 021:042
312.095	201 KAR 021:041
312.145	201 KAR 021:041
312.175	201 KAR 021:041
	201 KAR 021:042
313.254	201 KAR 008:581
314	902 KAR 020:260
314.011	201 KAR 020:056
	201 KAR 020:057
	201 KAR 020:062
	201 KAR 020:065
	201 KAR 020:161
	201 KAR 020:162
	201 KAR 020:215
	201 KAR 020:220
	201 KAR 020:280
	201 KAR 020:320
	201 KAR 020:411
	201 KAR 020:490
	908 KAR 001:370
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:495
	922 KAR 002:160
314.021	201 KAR 020:320
314.027	201 KAR 020:240
314.031	201 KAR 020:161
	201 KAR 020:162
314.041	201 KAR 020:240
	201 KAR 020:260
	201 KAR 020:320
314.042	201 KAR 020:056
	201 KAR 020:057
	201 KAR 020:062
	201 KAR 020:065
	201 KAR 020:240
314.051	201 KAR 020:240
314.071	201 KAR 020:161
	201 KAR 020:162
	201 KAR 020:240
314.073	201 KAR 020:215
	201 KAR 020:220
	201 KAR 020:240
314.075	201 KAR 020:240
314.091	201 KAR 020:056
	201 KAR 020:161
	201 KAR 020:162
314.101	201 KAR 020:240
314.103	201 KAR 020:056
	201 KAR 020:411
314.105	201 KAR 020:226
314.107	201 KAR 020:161
314.109	201 KAR 020:056
314.111	201 KAR 020:056
	201 KAR 020:260
	201 KAR 020:280
	201 KAR 020:310
	201 KAR 020:320
	201 KAR 020:340
	201 KAR 020:350
	201 KAR 020:360
	201 KAR 020:632

KRS SECTION	REGULATION
314.131	201 KAR 020:062
	201 KAR 020:220
	201 KAR 020:260
	201 KAR 020:280
	201 KAR 020:320
	201 KAR 020:350
314.142	201 KAR 020:240
	201 KAR 020:411
314.161	201 KAR 020:056
	201 KAR 020:162
	201 KAR 020:240
314.171	201 KAR 020:240
314.181	201 KAR 020:226
314.193	201 KAR 020:057
314.195	201 KAR 020:057
314.196	201 KAR 020:057
314.470	201 KAR 020:161
	201 KAR 020:310
314.475	201 KAR 020:056
	201 KAR 020:475
314.991	201 KAR 020:161
	201 KAR 020:162
	201 KAR 020:215
315.010	201 KAR 002:370
315.020	201 KAR 002:370
	908 KAR 001:341
315.030	201 KAR 002:370
315.036	902 KAR 055:011
315.065	201 KAR 002:015
315.120	201 KAR 002:015
315.121	201 KAR 002:370
315.191	902 KAR 055:011
315.402	902 KAR 055:011
315.406	902 KAR 055:011
317A.020	201 KAR 012:030
	201 KAR 012:082
	201 KAR 012:260
317A.050	201 KAR 012:030
	201 KAR 012:082
317A.060	201 KAR 012:030
	201 KAR 012:251
317A.062	201 KAR 012:260
317A.090	317 KAR 012:082
317A.130	201 KAR 012:280
318.010	815 KAR 020:030
318.020	815 KAR 020:030
318.030	815 KAR 020:030
318.040	815 KAR 020:030
318.050	815 KAR 002:040
	815 KAR 020:030
318.054	815 KAR 002:010
	815 KAR 002:020
	815 KAR 002:040
	815 KAR 020:030
318.060	815 KAR 020:030
318.080	815 KAR 020:030
318.100	815 KAR 002:030
318.130	815 KAR 002:010
	815 KAR 002:020
	902 KAR 045:160
318.134	815 KAR 002:040
318.170	815 KAR 002:030
	815 KAR 020:041
319	911 KAR 001:010
319.005	201 KAR 026:130
	908 KAR 001:370
319.032	201 KAR 026:130
	201 KAR 026:171
	201 KAR 026:175
319.050	201 KAR 026:171
	201 KAR 026:175
	201 KAR 026:200
319.053	201 KAR 026:175
319.056	201 KAR 026:171

KRS SECTION	REGULATION
	908 KAR 001:370
319.064	201 KAR 026:171
	201 KAR 026:175
	201 KAR 026:200
	201 KAR 026:211
	201 KAR 026:280
	908 KAR 001:370
319.071	201 KAR 026:175
319.082	201 KAR 026:130
	201 KAR 026:171
319.092	201 KAR 026:140
	201 KAR 026:171
319.118	201 KAR 026:130
	201 KAR 026:171
319.990	201 KAR 026:130
319A.010	201 KAR 028:170
	907 KAR 001:604
319A.070	201 KAR 028:021
319A.080	201 KAR 028:060
	201 KAR 028:170
319A.100	201 KAR 028:060
319A.110	201 KAR 028:060
319A.120	201 KAR 028:060
319A.140	201 KAR 028:060
319A.150	201 KAR 028:060
319A.160	201 KAR 028:060
319A.170	201 KAR 028:060
	201 KAR 028:170
322	401 KAR 042:341
322A	401 KAR 042:341
325.240	201 KAR 001:290
	201 KAR 001:240
	201 KAR 001:310
325.340	201 KAR 001:290
	201 KAR 001:340
326.020	201 KAR 013:040
	201 KAR 013:050
	201 KAR 013:055
	201 KAR 013:060
326.035	201 KAR 013:040
	201 KAR 013:050
	201 KAR 013:055
326.040	201 KAR 013:040
	201 KAR 013:060
326.080	201 KAR 013:040
	201 KAR 013:055
327.010	201 KAR 022:020
	907 KAR 001:604
327.050	201 KAR 022:020
	201 KAR 022:040
	201 KAR 022:070
	201 KAR 022:135
327.060	201 KAR 022:020
	201 KAR 022:070
327.070	201 KAR 022:040
327.075	201 KAR 022:020
	201 KAR 022:135
327.080	201 KAR 022:020
	201 KAR 022:135
327.300	201 KAR 022:170
327.310	201 KAR 022:020
334A	911 KAR 001:010
334A.020	907 KAR 001:604
335.030	201 KAR 023:150
335.070	201 KAR 023:150
335.080	908 KAR 001:370
335.100	908 KAR 001:370
335.150	201 KAR 023:150
335.155	201 KAR 023:150
335.300	908 KAR 001:370
335.305	201 KAR 032:110
335.310	201 KAR 032:110
335.320	201 KAR 032:110
335.325	201 KAR 032:110

KRS SECTION	REGULATION
335.380	201 KAR 032:110
335.399	201 KAR 032:110
335.500	908 KAR 001:370
337.275	922 KAR 002:160
338	803 KAR 050:010
338.015	803 KAR 002:180
	803 KAR 002:320
	803 KAR 002:505
338.031	803 KAR 002:320
338.121	803 KAR 002:180
338.161	803 KAR 002:180
339.230	815 KAR 035:060
341.190	787 KAR 001:010
342.0011	803 KAR 025:089
	803 KAR 025:270
	803 KAR 025:290
	803 KAR 030:010
342.019	803 KAR 025:089
342.020	803 KAR 025:089
	803 KAR 025:270
	803 KAR 025:290
342.035	803 KAR 025:089
	803 KAR 025:270
342.122	803 KAR 030:010
	803 KAR 030:021
342.1221	803 KAR 030:010
342.1222	803 KAR 030:010
342.1223	803 KAR 030:010
342.1231	803 KAR 030:010
	803 KAR 030:021
342.340	803 KAR 030:010
342.650	803 KAR 030:010
350	405 KAR 010:001
350.010	400 KAR 001:110
350.020	405 KAR 010:015
350.028	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
350.029	400 KAR 001:090
350.032	400 KAR 001:001
	400 KAR 001:090
350.060	400 KAR 001:090
	405 KAR 010:015
350.062	405 KAR 010:015
350.064	405 KAR 010:015
350.070	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
350.085	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
350.090	400 KAR 001:001
	400 KAR 001:090
	400 KAR 001:110
350.093	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
	405 KAR 010:015
350.095	405 KAR 010:015
350.100	405 KAR 010:015
350.130	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
350.151	405 KAR 010:015
350.240	400 KAR 001:090
350.255	400 KAR 001:001
	400 KAR 001:090
	400 KAR 001:110
350.300	400 KAR 001:090
350.305	400 KAR 001:090

KRS SECTION	REGULATION
350.465	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
	405 KAR 010:015
350.610	400 KAR 001:001
	400 KAR 001:090
350.990	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
350.0301	400 KAR 001:001
	400 KAR 001:090
	400 KAR 001:110
350.0305	400 KAR 001:001
	400 KAR 001:090
351.010	805 KAR 007:080
351.070	805 KAR 003:100
351.127	805 KAR 007:080
351.182	805 KAR 007:080
351.315	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
351.345	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
351.350	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
352.390	805 KAR 007:080
353	400 KAR 001:100
353.060	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
353.200	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
353.510	805 KAR 001:210
353.590	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
353.620	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
353.630	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	805 KAR 001:210
353.640	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	805 KAR 001:210
353.700	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
353.5901	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
363.590	302 KAR 085:010
363.610	302 KAR 085:010
367.680	040 KAR 002:345
367.686	040 KAR 002:345
367.688	040 KAR 002:345
367.689	040 KAR 002:345
367.690	040 KAR 002:345
369.101 - 369.120	895 KAR 001:035
	907 KAR 008:040
382.800 - 382.860	418 KAR 001:040
	418 KAR 001:050
383.085	902 KAR 045:065
	902 KAR 045:070

KRS SECTION	REGULATION
387	922 KAR 001:565
387.010	902 KAR 045:065
	902 KAR 045:070
	902 KAR 045:075
387.025	922 KAR 001:140
387.500 - 387.990	910 KAR 002:020
389A	910 KAR 002:020
403.190	102 KAR 001:320
403.211	921 KAR 001:380
403.270-403.355	922 KAR 001:565
403.707	201 KAR 020:411
405.024	922 KAR 001:565
405.430	921 KAR 001:380
405.467	921 KAR 001:380
405.520	921 KAR 001:380
406.021	921 KAR 001:380
406.025	921 KAR 001:380
407.5101 - 407.5903	921 KAR 001:380
421.500 - 421.575	201 KAR 020:411
422.317	907 KAR 003:170
	908 KAR 001:370
424	106 KAR 001:091
	400 KAR 002:100
424.110 - 424.150	902 KAR 008:170
431.615	907 KAR 001:360
433.900 - 433.906	830 KAR 001:010
434.840 - 434.860	907 KAR 003:170
439	501 KAR 006:020
439.3401	908 KAR 001:370
446.010	418 KAR 001:010
503.110	922 KAR 001:310
514	921 KAR 002:015
527.100	922 KAR 001:140
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:565
527.110	922 KAR 001:140
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:565
600 - 645	505 KAR 001:100
	505 KAR 001:110
	505 KAR 001:180
	505 KAR 001:190
600.020	922 KAR 001:050
	922 KAR 001:100
	922 KAR 001:305
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:360
	922 KAR 001:400
	922 KAR 001:495
	922 KAR 001:530
	922 KAR 002:160
	922 KAR 001:565
605.090	922 KAR 001:100
	922 KAR 001:140
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:360
605.100	922 KAR 001:350
	922 KAR 001:495
	922 KAR 001:530
605.110	505 KAR 001:080
605.120	922 KAR 002:160
	922 KAR 001:565
605.130	922 KAR 001:530
	922 KAR 001:400
	922 KAR 001:565
605.150	922 KAR 001:400
	922 KAR 001:495
	922 KAR 001:565
610.110	922 KAR 001:360
	922 KAR 001:140

KRS SECTION	REGULATION
	922 KAR 001:305
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:565
610.125	922 KAR 001:140
	922 KAR 001:310
610.127	922 KAR 001:140
610.170	921 KAR 001:380
	922 KAR 001:530
610.110	922 KAR 001:305
	922 KAR 001:400
	922 KAR 001:500
615.010 - -615.990	922 KAR 001:310
615.030	922 KAR 001:010
	922 KAR 001:100
620.020	922 KAR 001:140
	922 KAR 001:400
	922 KAR 001:560
	922 KAR 001:500
	922 KAR 002:160
	922 KAR 001:565
620.030	908 KAR 001:370
	922 KAR 001:310
	922 KAR 001:350
620.050	922 KAR 001:100
	922 KAR 001:350
620.060	922 KAR 001:140
620.090	922 KAR 001:140
	922 KAR 001:310
620.140	922 KAR 001:140
	922 KAR 001:305
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:400
	922 KAR 001:500
620.180	922 KAR 001:140
620.230	922 KAR 001:310
620.360	922 KAR 001:100
	922 KAR 001:350
	922 KAR 001:495
625	922 KAR 001:010
	922 KAR 001:050
	922 KAR 001:060
	922 KAR 001:100
	922 KAR 001:310
	922 KAR 001:350
625.040	922 KAR 001:140
625.045	922 KAR 001:100
625.065	922 KAR 001:560
625.090	922 KAR 001:140
625.108	922 KAR 001:100
2 C.F.R.	202 KAR 007:520
	902 KAR 008:165
	902 KAR 008:170
7 C.F.R.	405 KAR 010:001
	921 KAR 003:025
	921 KAR 003:030
	921 KAR 003:035
	921 KAR 003:060
	921 KAR 003:070
	922 KAR 002:160
10 C.F.R.	401 KAR 042:020
	902 KAR 100:022
	902 KAR 100:052
	902 KAR 100:070
	902 KAR 100:072
	902 KAR 100:100
	902 KAR 100:142
12 C.F.R.	808 KAR 003:061
	808 KAR 014:010
	808 KAR 015:030
16 C.F.R.	922 KAR 001:310
	922 KAR 001:350
20 C.F.R.	895 KAR 001:001

KRS SECTION	REGULATION
	922 KAR 002:160
21 C.F.R.	012 KAR 002:031
	012 KAR 002:041
	012 KAR 002:051
	012 KAR 003:037
	902 KAR 020:036
	902 KAR 045:075
	902 KAR 045:090
	902 KAR 045:160
	908 KAR 001:374
	921 KAR 002:015
23 C.F.R.	603 KAR 005:070
24 C.F.R.	815 KAR 025:090
28 C.F.R.	902 KAR 045:065
	902 KAR 045:070
29 C.F.R.	106 KAR 001:081
	702 KAR 001:160
	803 KAR 002:180
	803 KAR 002:320
	803 KAR 002:505
	806 KAR 017:091
	815 KAR 035:060
	902 KAR 020:260
	902 KAR 020:275
	902 KAR 045:065
	902 KAR 045:070
30 C.F.R.	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
	405 KAR 010:001
34 C.F.R.	011 KAR 004:080
	922 KAR 002:160
39 C.F.R.	400 KAR 001:090
40 C.F.R.	106 KAR 001:081
	106 KAR 001:091
	401 KAR 005:002
	401 KAR 039:060
	401 KAR 039:080
	401 KAR 039:090
	401 KAR 042:005
	401 KAR 042:020
	401 KAR 042:060
	401 KAR 042:250
	401 KAR 042:330
	401 KAR 042:341
	401 KAR 052:050
	401 KAR 052:070
	405 KAR 010:001
	902 KAR 100:022
42 C.F.R.	806 KAR 017:570
	895 KAR 001:001
	895 KAR 001:010
	895 KAR 001:015
	895 KAR 001:030
	895 KAR 001:035
	895 KAR 001:055
	900 KAR 002:040
	900 KAR 009:010
	902 KAR 020:300
	907 KAR 001:005
	907 KAR 001:022
	907 KAR 001:025
	907 KAR 001:270
	907 KAR 001:330
	907 KAR 001:340
	907 KAR 001:360
	907 KAR 001:560
	907 KAR 001:563
	907 KAR 001:604
	907 KAR 001:755
	907 KAR 003:170
	907 KAR 005:005
	907 KAR 008:040

KRS SECTION	REGULATION
	907 KAR 010:820
	908 KAR 001:341
	908 KAR 001:370
	908 KAR 001:374
	911 KAR 001:010
	922 KAR 001:350
45 C.F.R.	806 KAR 009:360
	806 KAR 017:570
	900 KAR 002:040
	900 KAR 009:010
	902 KAR 020:260
	902 KAR 020:275
	902 KAR 100:072
	907 KAR 001:360
	907 KAR 003:170
	907 KAR 008:040
	908 KAR 001:370
	921 KAR 001:380
	921 KAR 002:055
	921 KAR 003:025
	922 KAR 001:060
	922 KAR 001:100
	922 KAR 001:140
	922 KAR 001:310
	922 KAR 001:350
	922 KAR 001:400
	922 KAR 001:495
	922 KAR 001:500
	922 KAR 001:530
	922 KAR 002:160
49 C.F.R.	902 KAR 100:070
50 C.F.R.	400 KAR 003:020
74 C.F.R.	806 KAR 017:570
7 U.S.C.	302 KAR 027:050
	302 KAR 028:050
	302 KAR 029:020
	302 KAR 050:080
	921 KAR 003:025
	921 KAR 003:030
	921 KAR 003:035
	921 KAR 003:060
	922 KAR 002:160
8 U.S.C.	922 KAR 001:310
	922 KAR 001:350
	921 KAR 002:015
12 U.S.C.	808 KAR 003:050
15 U.S.C.	012 KAR 003:012
	012 KAR 003:028
	012 KAR 003:039
	201 KAR 027:008
	201 KAR 027:011
	401 KAR 005:002
	808 KAR 012:055
	908 KAR 001:374
18 U.S.C.	601 KAR 002:030
20 U.S.C.	011 KAR 004:080
	011 KAR 015:010
	703 KAR 005:270
	702 KAR 007:065
	704 KAR 003:292
	704 KAR 003:365
	808 KAR 003:050
	922 KAR 001:500
21 U.S.C.	012 KAR 002:041
	012 KAR 003:037
	902 KAR 020:111
	902 KAR 020:260
	902 KAR 045:090
	902 KAR 045:160
23 U.S.C.	603 KAR 005:070
25 U.S.C.	922 KAR 001:100
	922 KAR 001:140
	922 KAR 002:160
26 U.S.C.	101 KAR 002:095

KRS SECTION	REGULATION
	102 KAR 001:320
	103 KAR 015:180
	105 KAR 001:145
	105 KAR 001:147
	301 KAR 003:100
	907 KAR 005:005
29 U.S.C.	806 KAR 017:091
	806 KAR 017:570
	895 KAR 001:001
	907 KAR 005:005
	922 KAR 002:160
30 U.S.C.	400 KAR 001:001
	400 KAR 001:040
	400 KAR 001:090
	400 KAR 001:110
	405 KAR 010:001
	803 KAR 030:010
	921 KAR 002:055
31 U.S.C.	045 KAR 001:050
33 U.S.C.	401 KAR 005:002
	803 KAR 030:010
34 U.S.C.	922 KAR 002:160
38 U.S.C.	921 KAR 002:055
	922 KAR 002:160
42 U.S.C.	106 KAR 001:081
	106 KAR 001:091
	106 KAR 001:121
	401 KAR 005:002
	401 KAR 039:060
	401 KAR 042:005
	401 KAR 042:020
	401 KAR 042:060
	401 KAR 042:341
	401 KAR 052:050
	806 KAR 017:091
	806 KAR 017:570
	815 KAR 025:050
	895 KAR 001:001
	895 KAR 001:010
	895 KAR 001:015
	895 KAR 001:020
	895 KAR 001:025
	895 KAR 001:030
	895 KAR 001:035
	895 KAR 001:040
	895 KAR 001:045
	895 KAR 001:050
	895 KAR 001:055
	900 KAR 002:040
	902 KAR 020:260
	902 KAR 020:275
	902 KAR 100:022
	902 KAR 100:052
	902 KAR 100:070
	902 KAR 100:072
	902 KAR 100:100
	902 KAR 100:142
	906 KAR 001:190
	907 KAR 001:005
	907 KAR 001:022
	907 KAR 001:270
	907 KAR 001:330
	907 KAR 001:340
	907 KAR 001:360
	907 KAR 001:560
	907 KAR 001:563
	907 KAR 001:604
	907 KAR 001:755
	907 KAR 005:005
	907 KAR 008:040
	907 KAR 010:820
	908 KAR 001:370
	911 KAR 001:010
	921 KAR 001:380

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	921 KAR 002:015		
	921 KAR 002:055		
	921 KAR 003:030		
	921 KAR 003:035		
	922 KAR 001:060		
	922 KAR 001:100		
	922 KAR 001:140		
	922 KAR 001:305		
	922 KAR 001:310		
	922 KAR 001:350		
	922 KAR 001:360		
	922 KAR 001:400		
	922 KAR 001:495		
	922 KAR 001:500		
	922 KAR 001:530		
	922 KAR 002:160		
45 U.S.C.	921 KAR 002:055		
49 U.S.C.	302 KAR 029:020		
	603 KAR 005:070		
50 U.S.C.	103 KAR 017:130		
52 U.S.C.	921 KAR 003:030		
2012 Ky Acts ch. 144	806 KAR 017:091		
2014 Ky Acts ch. 117	907 KAR 001:604		
2016 Ky Acts ch. 149	922 KAR 002:160		
Pres. EO 13166	921 KAR 003:030		
Pub. L 108-173	806 KAR 017:570		
Pub. L 114-94	603 KAR 005:070		
Pub L 14-198	201 KAR 020:065		

CERTIFICATION LETTER SUMMARIES

The certification process is established in KRS 13A.3104. If the certification letter states the regulation shall be amended, the administrative body shall file an amendment to the regulation within 18 months of the date the certification letter was filed. If the certification letter states that the regulation shall remain in effect without amendment, the last effective date of the regulation is changed to the date the regulations compiler received the letter.

* KRS 13A.010(6) - "Effective" means that an administrative regulation has completed the legislative review process established by KRS 13A.290, 13A.330, and 13A.331.

Regulation Number	First Effective Date	Effective Date* of Last 13A Review	Letter Filed Date	Action
011 KAR 003:001	03-04-1993	01-10-1994	09-28-2018	Remain in Effect without Amendment
011 KAR 003:005	12-09-1992	09-12-1994	09-28-2018	Remain in Effect without Amendment
011 KAR 003:045	03-04-1993	03-04-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 003:055	03-04-1993	03-04-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 003:100	08-20-1992	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 004:020	02-04-1976	09-13-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 004:030	11-01-1978	04-14-1997	09-28-2018	Remain in Effect without Amendment
011 KAR 004:040	10-09-1984	11-08-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 004:050	05-14-1985	10-01-1998	09-28-2018	Remain in Effect without Amendment
011 KAR 004:060	10-01-1992	10-01-1992	09-28-2018	Remain in Effect without Amendment
011 KAR 005:001	08-01-1992	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 005:033	08-01-1992	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 005:110	11-04-1988	08-01-1992	09-28-2018	Remain in Effect without Amendment
011 KAR 005:130	03-23-1989	10-06-2006	09-28-2018	Remain in Effect without Amendment
011 KAR 005:140	02-03-1989	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 005:145	08-01-1992	07-01-2016	09-28-2018	Remain in Effect without Amendment
011 KAR 005:150	02-03-1989	09-09-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 005:160	02-03-1989	03-11-2005	09-28-2018	Remain in Effect without Amendment
011 KAR 005:170	02-03-1989	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 005:180	02-03-1989	06-03-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 005:200	04-06-2007	07-13-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 007:010	03-04-1986	02-07-1991	09-28-2018	Remain in Effect without Amendment
011 KAR 007:020	08-12-1986	02-07-1991	09-28-2018	Remain in Effect without Amendment
011 KAR 008:010	08-12-1986	08-09-1990	09-28-2018	Remain in Effect without Amendment
011 KAR 008:020	08-12-1986	08-09-1990	09-28-2018	Remain in Effect without Amendment
011 KAR 008:030	08-09-1990	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 008:040	08-09-1990	01-05-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 010:010	04-14-1987	10-07-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 010:020	04-14-1987	10-07-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 012:010	08-02-1991	12-18-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:020	08-02-1991	10-11-1999	09-28-2018	Remain in Effect without Amendment
011 KAR 012:030	08-02-1991	12-18-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:040	08-02-1991	02-11-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:050	08-02-1991	02-11-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:060	08-02-1991	07-12-2010	09-28-2018	Remain in Effect without Amendment
011 KAR 012:070	08-02-1991	08-14-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 012:090	08-02-1991	10-01-1992	09-28-2018	Remain in Effect without Amendment
011 KAR 013:010	03-06-1997	03-06-1997	09-28-2018	Remain in Effect without Amendment
011 KAR 014:010	10-01-1998	11-05-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 014:020	10-01-1998	10-01-1998	09-28-2018	Remain in Effect without Amendment
011 KAR 014:030	10-01-1998	03-10-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 014:040	10-01-1998	08-15-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 014:050	10-01-1998	10-01-1998	09-28-2018	Remain in Effect without Amendment
011 KAR 014:060	10-01-1998	01-05-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 014:070	10-01-1998	11-05-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 014:080	10-01-1998	01-05-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 015:010	10-01-1998	07-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 015:020	10-01-1998	01-28-2014	09-28-2018	Remain in Effect without Amendment
011 KAR 015:030	10-01-1998	12-21-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 015:040	10-01-1998	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 015:050	10-01-1998	12-21-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 015:060	10-01-1998	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 015:070	10-01-1998	12-21-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 015:080	09-09-2002	09-09-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 015:090	03-01-1999	03-09-2018	09-28-2018	Remain in Effect without Amendment
011 KAR 015:100	10-12-2015	10-12-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 016:001	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:010	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:020	02-05-2001	02-05-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 016:030	02-05-2001	02-05-2001	09-28-2018	Remain in Effect without Amendment

011 KAR 016:040	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:050	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:060	02-05-2001	10-12-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 016:070	07-06-2007	07-06-2007	09-28-2018	Remain in Effect without Amendment
011 KAR 017:010	12-01-2003	11-05-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 017:040	12-01-2003	01-04-2005	09-28-2018	Remain in Effect without Amendment
011 KAR 017:050	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:060	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:070	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:080	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:090	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:100	12-01-2003	11-05-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 017:110	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 019:010	04-01-2011	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 019:020	04-01-2011	04-01-2011	09-28-2018	Remain in Effect without Amendment
011 KAR 019:030	04-01-2011	04-01-2011	09-28-2018	Remain in Effect without Amendment
011 KAR 020:001	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:010	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:020	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:030	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:040	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:050	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:060	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:070	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
031 KAR 002:010	12-01-1982	03-05-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 002:020	03-05-2010	03-05-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 003:020	03-02-2012	03-02-2012	03-06-2019	Remain in Effect without Amendment
031 KAR 004:020	12-07-1990	04-02-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 004:030	12-07-1990	04-02-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 004:050	12-07-1990	12-07-1990	03-06-2019	Remain in Effect without Amendment
031 KAR 004:080	01-09-1995	01-09-1995	03-06-2019	Remain in Effect without Amendment
031 KAR 004:090	02-08-1995	02-08-1995	03-06-2019	Remain in Effect without Amendment
031 KAR 004:110	07-26-1995	07-26-1995	03-06-2019	Remain in Effect without Amendment
031 KAR 004:150	11-15-2005	11-15-2005	03-06-2019	Remain in Effect without Amendment
031 KAR 004:160	07-26-2006	07-26-2006	03-06-2019	Remain in Effect without Amendment
031 KAR 006:010	04-12-2004	06-04-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 006:030	02-03-2006	07-01-2011	03-06-2019	Remain in Effect without Amendment
031 KAR 006:040	06-06-2008	06-06-2008	03-06-2019	Remain in Effect without Amendment
103 KAR 017:120	01-05-2007	01-05-2007	11-06-2018	Remain in Effect without Amendment
103 KAR 018:010	02-05-1975	02-05-1975	11-06-2018	Remain in Effect without Amendment
103 KAR 018:060	02-05-1975	02-05-1975	11-06-2018	Remain in Effect without Amendment
103 KAR 018:172	01-05-2007	01-05-2007	11-06-2018	Remain in Effect without Amendment
105 KAR 001:020	05-14-1975	11-05-2004	03-05-2019	Remain in Effect without Amendment
105 KAR 001:070	11-08-1991	11-08-1991	03-05-2019	Remain in Effect without Amendment
105 KAR 001:120	11-08-1991	11-12-2002	03-05-2019	Remain in Effect without Amendment
105 KAR 001:215	11-08-1991	11-12-2002	03-05-2019	Remain in Effect without Amendment
105 KAR 001:300	03-19-2001	11-12-2002	03-05-2019	Remain in Effect without Amendment
105 KAR 001:320	12-19-2001	12-19-2001	03-05-2019	Remain in Effect without Amendment
105 KAR 001:340	12-19-2001	11-12-2002	03-05-2019	Remain in Effect without Amendment
105 KAR 001:345	02-06-2009	02-06-2009	03-05-2019	Remain in Effect without Amendment
105 KAR 001:350	11-12-2002	11-12-2002	03-05-2019	Remain in Effect without Amendment
105 KAR 001:380	01-05-2004	02-06-2009	03-05-2019	Remain in Effect without Amendment
200 KAR 021:010	03-22-1985	09-28-2011	04-08-2019	Remain in Effect without Amendment
200 KAR 021:020	03-22-1995	03-22-1995	04-08-2019	Remain in Effect without Amendment
200 KAR 021:040	03-22-1995	03-22-1995	04-08-2019	Remain in Effect without Amendment
200 KAR 021:050	03-22-1995	03-22-1995	04-08-2019	Remain in Effect without Amendment
200 KAR 023:010	10-22-1997	10-22-1997	04-08-2019	Remain in Effect without Amendment
201 KAR 001:020	06-11-1975	06-07-1992	04-09-2019	Remain in Effect without Amendment
201 KAR 001:160	07-05-1996	01-06-2012	04-09-2019	Remain in Effect without Amendment
201 KAR 001:180	04-15-2002	04-15-2002	04-09-2019	Remain in Effect without Amendment
201 KAR 005:037	11-07-1979	01-15-2003	01-23-2019	To be amended, filing deadline 07-23-20
201 KAR 005:040	07-02-1975	02-14-2008	01-23-2019	To be amended, filing deadline 07-23-20
201 KAR 005:050	07-02-1975	08-15-2001	01-23-2019	Remain in Effect without Amendment
201 KAR 005:100	02-16-2004	02-16-2004	01-23-2019	To be amended, filing deadline 07-23-20
201 KAR 005:120	06-05-2009	06-05-2009	01-23-2019	Remain in Effect without Amendment
201 KAR 008:510	02-04-2011	02-04-2011	04-08-2019	Remain in Effect without Amendment
201 KAR 008:581	05-06-2011	05-06-2011	04-08-2019	To be amended, filing deadline 10-15-20
201 KAR 009:021	10-09-1984	05-05-2006	03-29-2018	To Be Amended. Amendment filed 4-12-18, effective 7-18-2018.

201 KAR 009:023	10-09-1984	03-14-1994	03-29-2018	Remain in Effect without Amendment
201 KAR 009:024	10-09-1984	10-09-1984	03-29-2018	Remain in Effect without Amendment
201 KAR 009:031	10-09-1984	05-05-2006	03-29-2018	To Be Amended. Amendment filed 4-12-18, effective 7-18-2018.
201 KAR 009:041	10-09-1984	11-15-2006	09-28-2018	Remain in Effect without Amendment
201 KAR 009:051	10-09-1984	03-14-1994	07-06-2018	Remain in Effect without Amendment
201 KAR 009:061	10-09-1984	03-14-1994	07-06-2018	Remain in Effect without Amendment
201 KAR 009:071	10-09-1984	10-09-1984	07-07-2018	Remain in Effect without Amendment
201 KAR 009:082	10-09-1984	10-09-1984	12-20-2018	Remain in Effect without Amendment
201 KAR 009:084	11-11-1986	02-02-2007	09-28-2018	Remain in Effect without Amendment
201 KAR 009:350	11-19-2003	11-19-2003	12-20-2018	Remain in Effect without Amendment
201 KAR 009:400	02-02-2007	02-02-2007	09-28-2018	Remain in Effect without Amendment
201 KAR 014:010	05-14-1975	05-14-1975	03-12-2019	Remain in Effect without Amendment
201 KAR 014:035	05-14-1975	05-14-1975	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:067	06-11-1975	02-01-1984	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:070	05-14-1975	02-01-1984	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:095	05-14-1975	05-14-1975	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:100	05-14-1975	11-29-1990	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:105	06-11-1975	01-04-2013	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:130	05-14-1975	11-29-1990	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:135	05-14-1975	05-14-1975	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 014:140	05-14-1975	11-29-1990	03-12-2019	To be amended, filing deadline 9-12-20
201 KAR 022:001	09-10-1975	06-06-2014	06-04-2018	Remain in Effect without Amendment
201 KAR 022:010	09-11-1975	12-02-1986	06-04-2018	Remain in Effect without Amendment
201 KAR 022:035	11-06-1980	05-31-2013	06-04-2018	Remain in Effect without Amendment
201 KAR 022:045	01-04-2005	10-19-2016	06-04-2018	Remain in Effect without Amendment
201 KAR 022:052	06-03-1981	01-04-2005	06-04-2018	Remain in Effect without Amendment
201 KAR 022:053	08-17-1990	06-02-2017	06-04-2018	Remain in Effect without Amendment
201 KAR 022:130	01-06-1983	09-18-2013	06-04-2018	Remain in Effect without Amendment
201 KAR 022:135	07-02-1987	07-21-2010	06-04-2018	Remain in Effect without Amendment
201 KAR 022:140	07-03-1987	11-15-2006	06-04-2018	Remain in Effect without Amendment
201 KAR 022:150	12-19-2001	01-04-2005	06-04-2018	Remain in Effect without Amendment
201 KAR 022:160	08-01-2014	08-01-2014	06-04-2018	Remain in Effect without Amendment
202 KAR 007:010	03-14-2002	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:020	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:030	09-10-2001	01-05-2009	02-19-2019	Remain in Effect without Amendment
202 KAR 007:055	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:201	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:301	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:401	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:510	11-19-2003	12-05-2008	02-19-2019	Remain in Effect without Amendment
202 KAR 007:601	11-19-2003	10-17-2012	02-19-2019	Remain in Effect without Amendment
202 KAR 007:801	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
302 KAR 016:040	09-11-1984	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:070	03-13-1991	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:101	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:111	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:121	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:131	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:140	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 029:070	12-19-2001	12-19-2001	12-05-2018	Remain in Effect without Amendment
302 KAR 100:030	08-28-2009	08-28-2009	12-10-2018	Remain in Effect without Amendment
400 KAR 001:060	05-14-1987	05-14-1987	08-06-2018	Remain in Effect without Amendment
400 KAR 001:120	02-22-1995	08-04-2017	08-06-2018	Remain in Effect without Amendment
400 KAR 004:100	01-05-1977	10-26-1988	11-06-2018	Remain in Effect without Amendment
401 KAR 004:010	02-05-1975	08-25-2005	07-30-2018	Remain in Effect without Amendment
401 KAR 004:020	07-06-1977	07-06-1977	07-30-2018	Remain in Effect without Amendment
401 KAR 004:030	06-11-1975	06-11-1975	07-30-2018	Remain in Effect without Amendment
401 KAR 004:040	06-11-1975	06-11-1975	07-30-2018	Remain in Effect without Amendment
401 KAR 004:050	11-06-1980	11-06-1980	07-30-2018	Remain in Effect without Amendment
401 KAR 004:060	10-02-1987	03-09-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 004:070	05-05-2017	05-05-2017	07-30-2018	Remain in Effect without Amendment
401 KAR 004:200	08-07-1984	08-07-1984	07-30-2018	Remain in Effect without Amendment
401 KAR 004:220	06-26-1991	06-26-1991	07-30-2018	Remain in Effect without Amendment
401 KAR 004:300	04-28-1993	04-28-1993	07-30-2018	Remain in Effect without Amendment
401 KAR 005:010	05-07-1980	03-06-2009	05-11-2018	Remain in Effect without Amendment
401 KAR 005:090	08-03-1983	09-04-1986	05-11-2018	Remain in Effect without Amendment
401 KAR 005:310	11-17-2009	11-17-2009	05-11-2018	Remain in Effect without Amendment
401 KAR 006:001	10-08-2008	10-08-2008	09-05-2018	Remain in Effect without Amendment

401 KAR 006:200	08-07-1984	08-07-1984	09-05-2018	Remain in Effect without Amendment
401 KAR 006:310	08-13-1985	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 006:320	11-15-1990	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 006:350	10-08-2008	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 008:010	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:020	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:022	03-18-2002	09-25-2009	10-03-2018	Remain in Effect without Amendment
401 KAR 008:030	11-15-1990	02-05-2010	10-03-2018	Remain in Effect without Amendment
401 KAR 008:040	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:050	11-15-1990	07-06-2009	10-03-2018	Remain in Effect without Amendment
401 KAR 008:075	04-09-2001	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:100	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:150	11-15-1990	08-05-2010	10-03-2018	Remain in Effect without Amendment
401 KAR 008:200	11-15-1990	12-05-2014	10-03-2018	Remain in Effect without Amendment
401 KAR 008:250	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:300	11-15-1990	12-05-2014	10-03-2018	Remain in Effect without Amendment
401 KAR 008:700	11-15-1990	12-05-2014	10-03-2018	Remain in Effect without Amendment
401 KAR 009:010	08-21-2008	08-21-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 009:020	10-08-2008	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 011:001	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:010	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:020	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:030	03-06-2009	08-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:040	02-05-2010	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:050	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:060	03-06-2009	03-06-2009	11-01-2018	Remain in Effect without Amendment
401 KAR 030:005	03-12-1997	06-13-2007	09-05-2018	Remain in Effect without Amendment
401 KAR 030:020	06-04-1980	06-13-2007	09-05-2018	Remain in Effect without Amendment
401 KAR 030:031	06-24-1992	03-12-1997	09-05-2018	Remain in Effect without Amendment
401 KAR 030:040	06-04-1980	06-13-2007	09-05-2018	Remain in Effect without Amendment
401 KAR 039:005	03-12-1997	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:060	12-02-1983	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:080	02-04-1986	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:090	03-10-1988	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:120	10-26-1988	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 040:001	03-12-1997	03-12-1997	10-09-2018	Remain in Effect without Amendment
401 KAR 040:010	06-04-1980	12-02-1983	10-09-2018	Remain in Effect without Amendment
401 KAR 040:020	06-04-1980	12-02-1983	10-09-2018	Remain in Effect without Amendment
401 KAR 040:040	06-04-1980	12-02-1983	10-09-2018	Remain in Effect without Amendment
401 KAR 040:060	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 042:005	11-14-1995	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:011	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:020	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:030	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:040	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:045	12-19-1990	02-05-2016	10-09-2018	Remain in Effect without Amendment
401 KAR 042:050	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:060	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:070	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:080	11-14-1995	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:090	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:095	10-06-2011	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:200	09-25-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:250	09-13-2006	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:290	03-12-1993	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:300	03-12-1993	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:316	05-19-1999	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:320	03-12-1993	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:330	07-09-1997	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:335	06-09-1999	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:340	06-09-1999	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 045:010	06-24-1992	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 045:020	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:025	04-28-1993	04-28-1993	09-05-2018	Remain in Effect without Amendment
401 KAR 045:030	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:040	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:050	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:060	06-24-1992	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 045:070	06-24-1992	05-05-2006	09-05-2018	Remain in Effect without Amendment

401 KAR 045:080	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:090	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:100	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:110	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:130	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:135	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:140	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:160	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:210	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:250	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 046:101	05-05-2017	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 046:110	05-05-2017	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 046:120	05-05-2017	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 047:005	03-12-1997	03-12-1997	10-09-2018	Remain in Effect without Amendment
401 KAR 047:025	04-28-1993	04-28-1993	10-09-2018	Remain in Effect without Amendment
401 KAR 047:030	05-08-1990	03-18-2004	10-09-2018	Remain in Effect without Amendment
401 KAR 047:070	02-01-1982	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:080	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:090	05-08-1990	08-05-2010	10-09-2018	Remain in Effect without Amendment
401 KAR 047:095	03-19-2003	03-19-2003	10-09-2018	Remain in Effect without Amendment
401 KAR 047:100	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:110	09-08-1999	09-08-1999	10-09-2018	Remain in Effect without Amendment
401 KAR 047:120	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:130	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:136	03-13-1991	03-13-1991	10-09-2018	Remain in Effect without Amendment
401 KAR 047:140	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:150	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:160	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:170	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:180	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:190	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:205	10-06-2011	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 047:207	10-06-2011	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 048:005	11-07-1994	12-07-2017	08-13-2018	Remain in Effect without Amendment
401 KAR 048:050	05-08-1990	11-07-1994	08-13-2018	Remain in Effect without Amendment
401 KAR 048:060	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:070	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:080	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:090	05-08-1990	12-07-2017	08-13-2018	Remain in Effect without Amendment
401 KAR 048:170	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:200	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:205	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:206	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:207	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:208	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:300	05-08-1990	11-07-1994	08-13-2018	Remain in Effect without Amendment
401 KAR 048:310	05-08-1990	11-07-1994	08-13-2018	Remain in Effect without Amendment
401 KAR 048:320	09-08-1999	09-08-1999	08-13-2018	Remain in Effect without Amendment
401 KAR 049:005	03-12-1997	03-12-1997	09-05-2018	Remain in Effect without Amendment
401 KAR 049:011	09-23-1992	09-08-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 049:080	01-21-2005	09-08-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 049:100	03-12-1993	03-12-1993	09-05-2018	Remain in Effect without Amendment
401 KAR 050:010	06-06-1979	11-08-2006	11-21-2018	Remain in Effect without Amendment
401 KAR 050:012	06-06-1979	11-12-1997	11-21-2018	Remain in Effect without Amendment
401 KAR 050:015	06-06-1979	10-26-1988	11-21-2018	Remain in Effect without Amendment
401 KAR 050:020	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 050:025	06-06-1979	06-01-1983	11-21-2018	Remain in Effect without Amendment
401 KAR 050:038	11-29-1993	04-12-1995	11-21-2018	Remain in Effect without Amendment
401 KAR 050:040	06-06-1979	03-01-1984	11-21-2018	Remain in Effect without Amendment
401 KAR 050:042	06-10-1986	06-10-1986	11-21-2018	Remain in Effect without Amendment
401 KAR 050:045	06-06-1979	07-13-2005	11-21-2018	Remain in Effect without Amendment
401 KAR 050:047	06-24-1992	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 050:050	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 050:055	06-06-1979	09-22-1982	11-21-2018	Remain in Effect without Amendment
401 KAR 050:060	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 050:065	10-11-1995	10-11-1995	11-21-2018	Remain in Effect without Amendment
401 KAR 050:066	11-12-1997	11-12-2008	11-21-2018	Remain in Effect without Amendment
401 KAR 051:001	06-24-1992	12-07-2012	07-30-2018	Remain in Effect without Amendment
401 KAR 051:005	06-06-1979	06-06-1979	07-30-2018	Remain in Effect without Amendment

401 KAR 051:017	09-22-1982	12-07-2012	07-30-2018	Remain in Effect without Amendment
401 KAR 051:052	09-22-1982	12-07-2012	07-30-2018	Remain in Effect without Amendment
401 KAR 051:150	02-03-2006	02-03-2006	07-30-2018	Remain in Effect without Amendment
401 KAR 051:160	08-15-2001	02-03-2006	07-30-2018	Remain in Effect without Amendment
401 KAR 051:170	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:180	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:190	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:195	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:210	02-02-2007	02-02-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 051:220	02-02-2007	06-13-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 051:230	02-02-2007	02-02-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 052:001	01-15-2001	01-03-2011	09-12-2018	Remain in Effect without Amendment
401 KAR 052:020	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:030	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:040	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:060	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:090	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:100	01-15-2001	01-15-2001	09-12-2018	To be amended, filing deadline 03-12-20
401 KAR 053:005	06-06-1979	04-14-1988	09-12-2018	Remain in Effect without Amendment
401 KAR 053:010	06-06-1979	07-19-2016	09-12-2018	Remain in Effect without Amendment
401 KAR 055:005	06-06-1979	04-14-1988	09-12-2018	Remain in Effect without Amendment
401 KAR 055:010	06-06-1979	04-14-1988	09-12-2018	Remain in Effect without Amendment
401 KAR 055:015	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 055:020	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 057:002	07-14-1999	11-14-2007	09-12-2018	Remain in Effect without Amendment
401 KAR 058:005	01-25-1989	07-07-1998	07-30-2018	To be amended, filing deadline 01-03-20
401 KAR 058:010	01-25-1989	01-25-1989	07-30-2018	Remain in Effect without Amendment
401 KAR 058:025	01-07-1985	11-14-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 058:040	11-06-1987	11-06-1987	07-30-2018	Remain in Effect without Amendment
401 KAR 059:001	06-24-1992	11-08-2006	11-21-2018	Remain in Effect without Amendment
401 KAR 059:005	06-06-1979	12-01-1982	11-21-2018	Remain in Effect without Amendment
401 KAR 059:010	06-06-1979	04-14-1988	11-21-2018	Remain in Effect without Amendment
401 KAR 059:020	06-06-1979	11-21-2018	11-21-2018	Remain in Effect without Amendment
401 KAR 059:021	11-15-1990	11-15-1990	11-21-2018	Remain in Effect without Amendment
401 KAR 059:023	11-15-1990	11-15-1990	11-21-2018	Remain in Effect without Amendment
401 KAR 059:046	06-29-1979	06-29-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:050	06-29-1979	04-14-1988	11-21-2018	Remain in Effect without Amendment
401 KAR 059:080	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:085	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:090	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:095	06-29-1979	06-29-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:101	06-29-1979	09-28-1994	11-21-2018	Remain in Effect without Amendment
401 KAR 059:105	06-06-1979	04-07-1982	11-21-2018	Remain in Effect without Amendment
401 KAR 059:174	01-12-1998	03-04-2016	11-21-2018	Remain in Effect without Amendment
401 KAR 059:175	06-06-1979	02-08-1993	11-21-2018	Remain in Effect without Amendment
401 KAR 059:185	06-29-1979	01-04-2005	11-21-2018	Remain in Effect without Amendment
401 KAR 059:190	06-29-1979	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:210	06-29-1979	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:212	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:214	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:225	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:230	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:240	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:260	03-02-1983	04-01-1984	11-21-2018	Remain in Effect without Amendment
401 KAR 059:315	06-24-1992	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:760	03-11-2005	03-11-2005	11-21-2018	Remain in Effect without Amendment
401 KAR 061:001	06-24-1992	11-08-2006	01-25-2019	Remain in Effect without Amendment
401 KAR 061:005	06-29-1979	04-03-2009	01-25-2019	Remain in Effect without Amendment
401 KAR 061:010	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:011	11-15-1990	11-15-1990	01-25-2019	Remain in Effect without Amendment
401 KAR 061:013	02-07-1991	02-07-1991	01-25-2019	Remain in Effect without Amendment
401 KAR 061:020	06-06-1979	04-14-1988	01-25-2019	Remain in Effect without Amendment
401 KAR 061:025	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:030	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:035	06-06-1979	04-07-1982	01-25-2019	Remain in Effect without Amendment
401 KAR 061:036	04-13-1998	04-13-1998	01-25-2019	Remain in Effect without Amendment
401 KAR 061:040	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:045	06-29-1979	06-29-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:050	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment

401 KAR 061:055	06-29-1979	08-24-1982	01-25-2019	Remain in Effect without Amendment
401 KAR 061:056	06-29-1979	09-28-1994	01-25-2019	Remain in Effect without Amendment
401 KAR 061:060	06-29-1979	06-29-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:065	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:070	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:075	06-06-1979	12-01-1982	01-25-2019	Remain in Effect without Amendment
401 KAR 061:080	06-06-1979	04-01-1984	01-25-2019	Remain in Effect without Amendment
401 KAR 061:085	06-06-1979	02-08-1993	01-25-2019	Remain in Effect without Amendment
401 KAR 061:090	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:095	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:100	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:105	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:110	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:120	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:122	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:124	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:125	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:130	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:132	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:135	06-29-1979	06-29-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:137	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:140	06-06-1979	09-04-1986	01-25-2019	Remain in Effect without Amendment
401 KAR 061:145	06-06-1979	01-07-1981	01-25-2019	Remain in Effect without Amendment
401 KAR 061:150	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:155	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:160	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:165	01-07-1981	06-04-1985	01-25-2019	Remain in Effect without Amendment
401 KAR 061:170	03-02-1983	04-14-1988	01-25-2019	Remain in Effect without Amendment
401 KAR 061:175	12-02-1986	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 063:001	06-24-1992	11-08-2006	09-12-2018	Remain in Effect without Amendment
401 KAR 063:005	06-06-1979	07-13-2005	09-12-2018	Remain in Effect without Amendment
401 KAR 063:010	06-29-1979	06-29-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 063:015	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 063:020	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 063:021	11-11-1986	01-19-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 063:025	06-06-1979	06-24-1992	09-12-2018	Remain in Effect without Amendment
401 KAR 063:031	08-24-1982	02-08-1993	09-12-2018	Remain in Effect without Amendment
401 KAR 063:060	11-29-1993	03-03-2017	09-12-2018	Remain in Effect without Amendment
401 KAR 065:001	11-29-1993	11-08-2006	09-12-2018	Remain in Effect without Amendment
401 KAR 065:005	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 068:010	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:020	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:048	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:065	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:090	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:100	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:150	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:200	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 100:030	03-18-2004	03-18-2004	08-13-2018	Remain in Effect without Amendment
401 KAR 101:001	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:010	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:020	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:030	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:040	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 102:005	02-03-2014	02-03-2014	08-13-2018	Remain in Effect without Amendment
401 KAR 102:010	01-14-2002	02-03-2014	08-13-2018	Remain in Effect without Amendment
401 KAR 102:020	02-03-2014	02-03-2014	08-13-2018	Remain in Effect without Amendment
402 KAR 003:010	11-13-1984	11-02-2017	07-03-2018	Remain in Effect without Amendment
402 KAR 003:020	05-19-1999	05-05-2006	07-03-2018	Remain in Effect without Amendment
402 KAR 003:030	05-19-1999	11-02-2017	07-03-2018	Remain in Effect without Amendment
402 KAR 003:040	05-05-2006	05-05-2006	07-03-2018	Remain in Effect without Amendment
402 KAR 003:050	09-03-2015	09-03-2015	07-03-2018	Remain in Effect without Amendment
405 KAR 002:010	08-11-1982	08-11-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 005:002	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:015	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:021	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:032	08-26-2004	03-08-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 005:036	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:040	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment

405 KAR 005:042	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:048	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:050	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:055	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:062	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:065	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:070	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:078	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:082	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:085	02-22-1995	02-03-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 007:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 007:015	08-07-1984	12-12-1994	07-03-2018	Remain in Effect without Amendment
405 KAR 007:030	02-02-1983	11-09-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 007:035	11-26-1991	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 007:040	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 007:050	05-04-1983	05-04-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 007:060	01-06-1983	02-04-1986	07-03-2018	Remain in Effect without Amendment
405 KAR 007:070	05-14-1985	09-10-1987	07-03-2018	Remain in Effect without Amendment
405 KAR 007:080	01-06-1983	09-28-1994	07-03-2018	Remain in Effect without Amendment
405 KAR 007:095	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 007:097	06-09-1999	06-09-1999	07-03-2018	Remain in Effect without Amendment
405 KAR 007:100	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 007:110	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 008:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 008:010	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 008:020	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 008:030	01-06-1983	01-05-2015	07-03-2018	Remain in Effect without Amendment
405 KAR 008:040	01-06-1983	01-05-0215	07-03-2018	Remain in Effect without Amendment
405 KAR 008:050	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 010:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 010:015	09-06-2012	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 010:025	12-05-2014	12-05-2014	07-03-2018	Remain in Effect without Amendment
405 KAR 010:030	01-06-1983	09-06-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 010:035	10-09-1984	10-09-1984	07-03-2018	Remain in Effect without Amendment
405 KAR 010:040	01-06-1983	04-24-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 010:050	01-06-1983	09-22-1993	07-03-2018	Remain in Effect without Amendment
405 KAR 010:070	11-07-2013	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 010:080	11-07-2013	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 010:090	11-07-2013	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 012:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 012:010	01-06-1983	09-22-1993	07-03-2018	Remain in Effect without Amendment
405 KAR 012:020	01-06-1983	02-03-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 012:030	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 016:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 016:010	01-06-1983	12-12-1994	07-03-2018	Remain in Effect without Amendment
405 KAR 016:020	01-06-1983	09-06-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 016:030	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 016:040	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 016:050	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 016:060	01-06-1983	07-07-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 016:070	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:080	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:090	01-06-1983	10-09-2002	07-03-2018	Remain in Effect without Amendment
405 KAR 016:100	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 016:110	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 016:120	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:130	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 016:140	01-06-1983	11-17-2009	07-03-2018	Remain in Effect without Amendment
405 KAR 016:150	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:160	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 016:170	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 016:180	01-06-1983	06-24-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 016:190	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 016:200	01-06-1983	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 016:210	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 016:220	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 016:250	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:010	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment

405 KAR 018:020	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:030	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:040	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:050	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 018:060	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:070	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:080	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:090	01-06-1983	10-09-2002	07-03-2018	Remain in Effect without Amendment
405 KAR 018:100	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 018:110	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:120	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:130	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 018:140	01-06-1983	11-17-2009	07-03-2018	Remain in Effect without Amendment
405 KAR 018:150	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:160	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 018:170	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 018:180	01-06-1983	06-24-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 018:190	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 018:200	01-06-1983	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 018:210	01-06-1983	06-08-2001	07-03-2018	Remain in Effect without Amendment
405 KAR 018:220	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 018:230	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:260	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 020:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 020:010	01-06-1983	12-17-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 020:030	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 020:040	01-06-1983	02-04-1986	07-03-2018	Remain in Effect without Amendment
405 KAR 020:050	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 020:060	01-06-1983	05-22-2000	07-03-2018	Remain in Effect without Amendment
405 KAR 020:070	01-06-1983	02-04-1986	07-03-2018	Remain in Effect without Amendment
405 KAR 020:080	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 020:090	01-05-2018	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 024:001	04-03-1992	04-03-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 024:020	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 024:030	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 024:040	01-06-1983	06-28-1989	07-03-2018	Remain in Effect without Amendment
405 KAR 026:001	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:010	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:015	08-07-1984	08-07-1984	07-03-2018	Remain in Effect without Amendment
405 KAR 030:020	03-01-1982	11-02-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:025	06-25-1983	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:035	06-25-1982	06-25-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:040	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:050	06-02-1982	06-02-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:060	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:070	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:080	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:090	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:100	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:110	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:121	06-02-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:125	06-02-1982	06-02-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:130	08-02-1981	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:140	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:150	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:160	11-02-1983	11-02-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:170	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:180	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:210	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:220	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:230	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:240	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:250	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:260	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:270	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:280	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:290	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:300	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:310	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment

405 KAR 030:320	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:330	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:340	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:350	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:360	11-02-1983	11-02-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:370	10-05-1983	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:390	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:400	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:410	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
416 KAR 001:010	08-24-1995	08-24-1995	06-27-2018	Remain in Effect without Amendment
500 KAR 007:020	01-07-1989	01-07-1989	03-13-2019	Remain in Effect without Amendment
500 KAR 008:010	02-07-1991	12-01-2017	12-17-2018	Remain in Effect without Amendment
500 KAR 008:020	11-08-1991	05-24-2004	12-17-2018	Remain in Effect without Amendment
500 KAR 008:030	11-08-1991	12-01-2017	12-17-2018	Remain in Effect without Amendment
505 KAR 001:010	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:050	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:060	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:070	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:090	06-12-2000	06-12-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:010	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:020	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:030	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:040	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:050	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:060	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:070	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:080	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:090	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:100	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:110	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:120	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:130	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:140	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:150	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:160	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:170	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:180	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:190	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:200	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:210	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:220	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:230	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
600 KAR 003:020	10-04-1989	05-18-1994	02-11-2019	Remain in Effect without Amendment
600 KAR 003:030	06-01-1999	11-09-2006	02-18-2019	Remain in Effect without Amendment
600 KAR 006:010	04-05-1996	11-09-2006	04-01-2019	Remain in Effect without Amendment
600 KAR 006:020	04-05-1996	04-05-1996	04-01-2019	Remain in Effect without Amendment
600 KAR 006:030	04-05-1996	11-09-2006	04-01-2019	Remain in Effect without Amendment
600 KAR 006:040	04-05-1996	07-01-2014	04-01-2019	Remain in Effect without Amendment
600 KAR 006:050	04-05-1996	11-09-2006	04-01-2019	Remain in Effect without Amendment
600 KAR 006:060	04-05-1996	11-09-2006	04-01-2019	Remain in Effect without Amendment
600 KAR 006:065	05-04-1999	11-09-2006	04-01-2019	Remain in Effect without Amendment
600 KAR 006:070	04-05-1996	11-09-2006	04-01-2019	Remain in Effect without Amendment
600 KAR 006:080	04-05-1996	01-25-2012	10-08-2018	Remain in Effect without Amendment
600 KAR 006:080	04-05-1996	01-25-2012	02-18-2019	Remain in Effect without Amendment
601 KAR 001:018	05-22-2000	07-07-2017	02-18-2019	Remain in Effect without Amendment
601 KAR 001:019	07-06-2012	07-06-2012	10-08-2018	Remain in Effect without Amendment
601 KAR 001:019	07-06-2012	07-06-2012	02-18-2019	Remain in Effect without Amendment
601 KAR 001:146	05-18-1998	04-05-2013	02-18-2019	Remain in Effect without Amendment
601 KAR 001:147	05-18-1998	10-01-2013	02-18-2019	Remain in Effect without Amendment
601 KAR 001:200	09-03-1996	08-06-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 001:201	03-02-1999	09-07-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 001:201	03-02-1999	09-07-2010	02-18-2019	Remain in Effect without Amendment
601 KAR 001:220	05-07-2010	05-07-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 002:020	09-01-1998	08-10-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 002:020	09-01-1998	08-10-2010	02-25-2019	Remain in Effect without Amendment
601 KAR 009:012	09-01-1976	10-05-1993	02-11-2019	Remain in Effect without Amendment
601 KAR 009:015	05-14-1975	11-05-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 009:015	05-14-1975	11-05-2010	02-11-2019	Remain in Effect without Amendment
601 KAR 009:080	01-04-1984	09-10-1987	02-18-2019	Remain in Effect without Amendment

601 KAR 009:085	01-04-1984	04-04-2014	02-18-2019	Remain in Effect without Amendment
601 KAR 009:090	01-04-1984	11-02-2012	10-08-2018	Remain in Effect without Amendment
601 KAR 009:090	01-04-1984	11-02-2012	02-11-2019	Remain in Effect without Amendment
601 KAR 009:160	05-23-1994	03-14-2012	10-08-2018	Remain in Effect without Amendment
601 KAR 009:160	05-23-1994	03-14-2012	02-11-2019	Remain in Effect without Amendment
601 KAR 009:200	05-02-1995	12-06-2013	02-11-2019	Remain in Effect without Amendment
601 KAR 009:205	01-03-2011	01-03-2011	10-08-2018	Remain in Effect without Amendment
601 KAR 009:210	12-19-2001	04-01-2011	10-08-2018	Remain in Effect without Amendment
601 KAR 009:210	12-19-2001	04-01-2011	02-11-2019	Remain in Effect without Amendment
601 KAR 009:220	12-07-1995	12-07-1995	02-11-2019	Remain in Effect without Amendment
601 KAR 011:010	04-05-1991	10-07-2005	02-25-2019	Remain in Effect without Amendment
601 KAR 011:020	04-05-1991	01-09-1997	02-25-2019	Remain in Effect without Amendment
601 KAR 011:030	04-05-1991	10-07-2014	02-25-2019	Remain in Effect without Amendment
601 KAR 011:035	10-04-2011	10-04-2011	10-08-2018	Remain in Effect without Amendment
601 KAR 011:035	10-04-2011	10-04-2011	02-25-2019	Remain in Effect without Amendment
601 KAR 011:050	04-05-1991	04-05-1991	02-25-2019	Remain in Effect without Amendment
601 KAR 011:080	06-23-1994	06-23-1994	02-25-2019	Remain in Effect without Amendment
601 KAR 012:020	06-11-1975	03-04-1997	02-25-2019	Remain in Effect without Amendment
601 KAR 012:050	09-04-1986	09-04-1986	02-25-2019	Remain in Effect without Amendment
601 KAR 012:060	10-01-1991	07-02-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 012:060	10-01-1991	07-02-2010	02-25-2019	Remain in Effect without Amendment
601 KAR 012:070	10-03-1995	10-03-1995	02-25-2019	Remain in Effect without Amendment
601 KAR 013:025	08-09-1990	11-01-2013	02-25-2019	Remain in Effect without Amendment
601 KAR 013:031	11-16-1993	11-16-1993	02-25-2019	Remain in Effect without Amendment
601 KAR 013:040	09-11-1984	09-11-1984	02-25-2019	Remain in Effect without Amendment
601 KAR 013:070	12-04-1990	11-07-2008	02-25-2019	Remain in Effect without Amendment
601 KAR 013:110	03-04-1997	02-01-2013	02-25-2019	Remain in Effect without Amendment
601 KAR 014:020	02-10-1994	07-07-2015	03-11-2019	Remain in Effect without Amendment
601 KAR 014:030	11-05-2010	11-05-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 014:030	11-05-2010	11-05-2010	03-11-2019	Remain in Effect without Amendment
601 KAR 015:020	09-11-1984	09-10-1987	03-26-2019	Remain in Effect without Amendment
601 KAR 015:030	01-30-2018	01-30-2018	03-26-2019	Remain in Effect without Amendment
601 KAR 023:010	02-05-2010	02-05-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 023:010	02-05-2010	02-05-2010	02-11-2019	Remain in Effect without Amendment
602 KAR 020:020	12-10-1975	11-04-1989	03-26-2019	Remain in Effect without Amendment
602 KAR 020:030	06-11-1975	11-04-1989	03-26-2019	Remain in Effect without Amendment
602 KAR 020:040	06-11-1975	11-04-1989	03-26-2019	Remain in Effect without Amendment
602 KAR 020:100	10-08-1975	01-12-1990	03-26-2019	Remain in Effect without Amendment
602 KAR 020:120	11-04-1989	11-04-1989	03-26-2019	Remain in Effect without Amendment
602 KAR 050:010	05-14-1975	04-09-2001	03-26-2019	Remain in Effect without Amendment
602 KAR 050:030	05-14-1975	04-05-2013	03-26-2019	Remain in Effect without Amendment
602 KAR 050:040	06-11-1975	01-04-1984	03-26-2019	Remain in Effect without Amendment
602 KAR 050:050	06-11-1975	04-05-2013	03-26-2019	Remain in Effect without Amendment
602 KAR 050:060	05-14-1975	04-09-2001	03-26-2019	Remain in Effect without Amendment
602 KAR 050:070	05-14-1975	04-09-2001	03-26-2019	Remain in Effect without Amendment
602 KAR 050:090	06-11-1975	04-09-2001	03-26-2019	Remain in Effect without Amendment
602 KAR 050:100	05-14-1975	04-09-2001	03-26-2019	Remain in Effect without Amendment
602 KAR 050:110	05-14-1975	11-04-1992	03-26-2019	Remain in Effect without Amendment
602 KAR 050:115	09-10-1975	01-04-1984	03-26-2019	Remain in Effect without Amendment
602 KAR 050:120	05-14-1975	08-11-1997	03-26-2019	Remain in Effect without Amendment
603 KAR 001:020	05-14-1976	10-03-1979	02-11-2019	Remain in Effect without Amendment
603 KAR 003:051	07-17-1979	10-04-1988	04-01-2019	Remain in Effect without Amendment
603 KAR 004:035	11-03-1982	02-15-2012	10-08-2018	Remain in Effect without Amendment
603 KAR 004:035	11-03-1982	02-15-2012	03-05-2019	Remain in Effect without Amendment
603 KAR 004:040	01-09-1995	09-07-2004	03-05-2019	Remain in Effect without Amendment
603 KAR 004:050	06-01-1999	12-19-2001	03-05-2019	Remain in Effect without Amendment
603 KAR 005:040	02-11-1974	07-17-1979	04-01-2019	Remain in Effect without Amendment
603 KAR 005:050	05-14-1975	04-05-2013	03-05-2019	Remain in Effect without Amendment
603 KAR 005:061	03-12-1985	08-05-1987	03-11-2019	Remain in Effect without Amendment
603 KAR 005:077	01-06-1981	02-03-1990	03-05-2019	Remain in Effect without Amendment
603 KAR 005:115	04-07-1982	02-10-1997	03-11-2019	Remain in Effect without Amendment
603 KAR 005:120	03-12-1985	01-13-2000	04-01-2019	Remain in Effect without Amendment
603 KAR 005:150	03-12-1985	01-13-2000	04-01-2019	Remain in Effect without Amendment
603 KAR 005:220	02-10-1987	02-10-1987	03-11-2019	Remain in Effect without Amendment
603 KAR 005:230	03-06-1987	11-06-2009	03-11-2019	Remain in Effect without Amendment
603 KAR 005:240	10-02-1990	10-02-1990	03-05-2019	Remain in Effect without Amendment
603 KAR 005:250	07-02-1991	07-02-1991	03-11-2019	Remain in Effect without Amendment
603 KAR 007:080	01-25-2012	01-25-2012	10-08-2018	Remain in Effect without Amendment
603 KAR 007:090	10-02-2001	10-02-2001	03-11-2019	Remain in Effect without Amendment

603 KAR 009:010	08-03-1993	06-01-1995	03-11-2019	Remain in Effect without Amendment
603 KAR 009:020	06-01-1995	06-01-1995	03-11-2019	Remain in Effect without Amendment
605 KAR 001:020	01-07-1989	01-07-1989	03-05-2019	Remain in Effect without Amendment
605 KAR 001:030	12-01-1982	10-01-1991	03-05-2019	Remain in Effect without Amendment
605 KAR 001:031	01-04-2008	01-04-2008	03-05-2019	Remain in Effect without Amendment
605 KAR 001:060	07-07-2004	03-06-2009	03-05-2019	Remain in Effect without Amendment
605 KAR 001:160	11-06-1987	10-01-1991	03-05-2019	Remain in Effect without Amendment
605 KAR 001:170	03-10-1988	03-10-1988	02-18-2019	Remain in Effect without Amendment
605 KAR 001:170	03-10-1988	03-10-1988	03-05-2019	Remain in Effect without Amendment
701 KAR 005:055	08-04-1994	12-05-1996	11-16-2018	Remain in Effect without Amendment
701 KAR 005:080	03-13-1991	03-13-1991	11-16-2018	Remain in Effect without Amendment
701 KAR 005:090	09-06-1991	11-12-2002	11-16-2018	Remain in Effect without Amendment
701 KAR 005:100	09-06-1991	06-01-1995	11-16-2018	Remain in Effect without Amendment
701 KAR 005:120	01-19-1999	01-19-1999	11-16-2018	Remain in Effect without Amendment
701 KAR 005:130	03-07-2008	03-07-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 001:035	03-02-1977	07-15-2002	11-16-2018	Remain in Effect without Amendment
702 KAR 001:080	03-10-1976	12-05-1996	11-16-2018	Remain in Effect without Amendment
702 KAR 001:100	02-02-1977	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 001:140	07-06-1995	07-06-1995	11-16-2018	Remain in Effect without Amendment
702 KAR 001:150	01-15-2001	03-19-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 003:020	11-13-1974	01-14-2002	11-16-2018	Remain in Effect without Amendment
702 KAR 003:030	11-13-1974	07-02-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 003:045	03-12-1975	08-01-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 003:050	03-12-1975	12-09-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 003:060	11-03-1974	01-16-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 003:070	03-12-1975	01-14-2002	11-16-2018	Remain in Effect without Amendment
702 KAR 003:075	11-13-1974	11-01-1999	11-16-2018	Remain in Effect without Amendment
702 KAR 003:080	11-13-1975	01-05-2009	11-16-2018	Remain in Effect without Amendment
702 KAR 003:090	11-13-1975	06-08-2009	11-16-2018	Remain in Effect without Amendment
702 KAR 003:135	10-01-1980	01-14-2002	11-16-2018	Remain in Effect without Amendment
702 KAR 003:150	11-13-1974	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 003:190	10-09-1984	09-02-1993	11-16-2018	Remain in Effect without Amendment
702 KAR 003:246	02-12-1996	01-03-2011	11-16-2018	Remain in Effect without Amendment
702 KAR 003:250	09-06-1991	10-01-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 003:270	12-01-1994	09-08-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 003:275	02-02-1995	02-02-1995	11-16-2018	Remain in Effect without Amendment
702 KAR 003:285	01-09-1997	01-09-1997	11-16-2018	Remain in Effect without Amendment
702 KAR 003:310	02-03-2003	02-03-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 004:005	06-11-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 004:050	10-08-1975	03-07-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 004:090	06-11-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 004:100	12-10-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 004:170	03-02-1995	03-02-1995	11-16-2018	Remain in Effect without Amendment
702 KAR 004:180	10-06-1991	07-07-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 005:010	06-11-1975	12-01-2006	11-16-2018	Remain in Effect without Amendment
702 KAR 005:020	10-08-1975	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 005:060	06-11-1975	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 005:080	03-16-1998	01-04-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 005:100	06-11-1975	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 005:120	01-05-1977	10-01-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 005:130	06-04-1985	01-16-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 005:150	12-07-1990	01-16-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 006:010	10-02-1974	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:020	03-12-1975	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:040	03-12-1975	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:045	03-23-1989	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:050	10-02-1974	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 006:060	03-12-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 006:075	10-14-1990	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 007:130	01-05-2009	10-06-2010	11-16-2018	Remain in Effect without Amendment
703 KAR 003:205	09-02-1993	12-05-1996	11-16-2018	Remain in Effect without Amendment
704 KAR 003:285	07-05-1978	09-01-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:307	04-01-1981	02-07-1991	11-16-2018	Remain in Effect without Amendment
704 KAR 003:325	10-09-1994	02-03-2006	11-16-2018	Remain in Effect without Amendment
704 KAR 003:406	08-04-1994	08-04-1994	11-16-2018	Remain in Effect without Amendment
704 KAR 003:410	12-09-1990	06-07-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:420	06-07-1999	06-07-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:440	08-01-1992	08-01-1992	11-16-2018	Remain in Effect without Amendment
704 KAR 003:455	01-09-1995	03-19-2003	11-16-2018	Remain in Effect without Amendment

704 KAR 003:480	03-01-1999	03-01-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:490	01-15-2001	08-07-2006	11-16-2018	Remain in Effect without Amendment
704 KAR 003:500	11-05-2001	11-05-2001	11-16-2018	Remain in Effect without Amendment
704 KAR 003:510	03-19-2003	03-19-2003	11-16-2018	Remain in Effect without Amendment
704 KAR 003:530	08-07-2006	08-07-2006	11-16-2018	Remain in Effect without Amendment
704 KAR 004:010	11-13-1974	02-07-1991	11-16-2018	Remain in Effect without Amendment
704 KAR 005:060	12-02-1988	02-07-1991	11-16-2018	Remain in Effect without Amendment
704 KAR 007:070	12-02-1986	01-19-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 007:120	10-07-1993	04-22-2005	11-16-2018	Remain in Effect without Amendment
704 KAR 007:130	09-04-1997	06-08-2001	11-16-2018	Remain in Effect without Amendment
704 KAR 007:140	01-16-2003	11-08-2004	11-16-2018	Remain in Effect without Amendment
704 KAR 010:022	11-03-1976	10-08-1989	11-16-2018	Remain in Effect without Amendment
705 KAR 003:141	08-04-1994	08-04-1994	11-16-2018	Remain in Effect without Amendment
705 KAR 004:081	08-04-1994	08-04-1994	11-16-2018	Remain in Effect without Amendment
705 KAR 004:240	01-19-1999	01-19-1999	11-16-2018	Remain in Effect without Amendment
707 KAR 001:270	03-01-1999	03-01-1999	11-16-2018	Remain in Effect without Amendment
707 KAR 001:290	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:300	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:320	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:350	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:360	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:370	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:380	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
750 KAR 001:010	07-02-1986	04-02-2010	07-25-2018	Remain in Effect without Amendment
750 KAR 002:010	11-04-1993	02-04-1999	07-25-2018	Remain in Effect without Amendment
780 KAR 001:010	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 002:010	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 002:030	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 002:110	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:010	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:020	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:030	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:035	09-11-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:040	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:060	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:065	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:075	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:090	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:100	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:110	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:150	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:160	07-05-1991	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:005	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:010	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:020	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:030	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:040	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:050	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:062	07-17-2000	01-04-2010	11-16-2018	Remain in Effect without Amendment
780 KAR 006:065	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:070	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:080	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:090	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:100	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 007:020	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 007:040	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
803 KAR 025:012	03-09-1993	12-21-2000	03-29-2019	Remain in Effect without Amendment
803 KAR 025:030	08-13-1975	10-07-2005	03-29-2019	Remain in Effect without Amendment
803 KAR 025:036	02-25-1997	02-25-1997	03-29-2019	Remain in Effect without Amendment
803 KAR 025:040	08-13-1975	08-13-1975	03-29-2019	Remain in Effect without Amendment
803 KAR 025:070	11-02-1983	11-02-1983	03-29-2019	To be amended, filing deadline 9-29-20
803 KAR 025:075	04-20-1995	04-20-1995	03-29-2019	To be amended, filing deadline 9-29-20
803 KAR 025:091	02-02-1993	03-04-2011	03-29-2019	To be amended, filing deadline 9-29-20
803 KAR 025:096	03-09-1993	06-15-1998	03-29-2019	To be amended, filing deadline 9-29-20
803 KAR 025:101	11-07-1994	12-21-2000	03-29-2019	Remain in Effect without Amendment
803 KAR 025:110	02-09-1995	01-04-2008	03-29-2019	Remain in Effect without Amendment
803 KAR 025:120	02-19-1995	12-18-2002	03-29-2019	Remain in Effect without Amendment
803 KAR 025:125	10-31-2003	10-31-2003	03-29-2019	Remain in Effect without Amendment
803 KAR 025:130	01-12-1998	01-12-1998	03-29-2019	Remain in Effect without Amendment

803 KAR 025:150	10-19-1995	10-19-1995	03-29-2019	Remain in Effect without Amendment
803 KAR 025:160	03-06-1995	03-06-1995	03-29-2019	Remain in Effect without Amendment
803 KAR 025:200	07-17-1997	07-17-1997	03-29-2019	Remain in Effect without Amendment
803 KAR 025:210	07-17-1997	07-17-1997	03-29-2019	Remain in Effect without Amendment
803 KAR 025:230	07-17-1997	07-17-1997	03-29-2019	Remain in Effect without Amendment
803 KAR 025:240	02-18-1999	02-18-1999	03-29-2019	To be amended, filing deadline 9-29-20
803 KAR 025:280	06-06-2008	06-06-2008	03-29-2019	Remain in Effect without Amendment
804 KAR 002:005	04-09-1975	08-07-1984	03-26-2019	Remain in Effect without Amendment
804 KAR 004:100	02-05-1975	11-26-2004	03-26-2019	Remain in Effect without Amendment
804 KAR 004:110	02-05-1975	11-29-1990	03-26-2019	Remain in Effect without Amendment
804 KAR 004:270	02-12-1985	02-12-1985	03-26-2019	Remain in Effect without Amendment
804 KAR 004:280	01-03-1986	01-03-1986	03-26-2019	Remain in Effect without Amendment
804 KAR 004:330	02-14-1997	01-05-2007	03-26-2019	Remain in Effect without Amendment
804 KAR 007:020	05-14-1975	05-14-1975	03-26-2019	To be amended, filing deadline 9-26-20
804 KAR 007:030	05-14-1975	05-14-1975	03-26-2019	Remain in Effect without Amendment
804 KAR 013:010	11-11-1996	11-11-1996	03-26-2019	Remain in Effect without Amendment
805 KAR 001:020	08-02-1978	09-25-1991	07-03-2018	Remain in Effect without Amendment
805 KAR 001:030	11-13-1975	10-23-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 001:040	04-09-1975	04-09-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 001:050	04-09-1975	09-25-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 001:060	06-11-1975	12-07-2017	06-27-2018	Remain in Effect without Amendment
805 KAR 001:080	06-11-1975	06-11-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 001:100	08-13-1975	09-03-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:110	09-01-1984	04-04-2008	06-27-2018	Remain in Effect without Amendment
805 KAR 001:120	09-25-1991	09-25-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 001:130	09-25-1991	09-04-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:140	09-25-1991	09-04-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:160	07-09-1997	07-09-1997	06-27-2018	Remain in Effect without Amendment
805 KAR 001:170	07-09-1997	09-04-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:180	11-12-1997	11-12-1997	06-27-2018	Remain in Effect without Amendment
805 KAR 001:190	03-18-2004	11-17-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 001:200	10-23-2009	10-23-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 002:010	12-11-1974	12-11-1974	06-27-2018	Remain in Effect without Amendment
805 KAR 003:010	05-14-1975	09-22-1993	06-27-2018	Remain in Effect without Amendment
805 KAR 003:020	05-14-1975	07-09-1985	06-27-2018	Remain in Effect without Amendment
805 KAR 003:030	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:040	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:060	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:070	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:080	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:090	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:100	05-14-1975	02-05-2016	06-27-2018	Remain in Effect without Amendment
805 KAR 003:110	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:120	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 004:005	09-01-1976	06-07-1993	06-27-2018	Remain in Effect without Amendment
805 KAR 004:010	06-11-1975	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 004:020	07-02-1975	07-02-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 004:030	07-02-1975	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:040	06-11-1975	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 004:050	06-11-1975	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:060	06-11-1975	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:075	09-01-1976	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:080	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:085	09-01-1976	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 004:087	03-02-1977	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:090	09-01-1976	09-07-1983	06-27-2018	Remain in Effect without Amendment
805 KAR 004:093	12-11-1996	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 004:095	09-01-1976	05-03-1978	06-27-2018	Remain in Effect without Amendment
805 KAR 004:100	09-01-1976	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 004:105	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:110	09-01-1976	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:115	09-01-1976	05-03-1978	06-27-2018	Remain in Effect without Amendment
805 KAR 004:120	09-01-1976	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:125	09-01-1976	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 004:130	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:135	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:140	09-01-1976	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 004:145	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:150	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment

805 KAR 004:155	06-26-1991	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:160	06-27-1991	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:165	06-28-1991	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 005:010	09-01-1976	10-14-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 005:030	11-09-1992	12-11-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 005:070	12-11-1996	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 007:010	10-05-1977	08-06-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 007:020	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:030	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:040	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:050	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:060	07-05-1978	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:070	02-07-1979	10-13-1999	06-27-2018	Remain in Effect without Amendment
805 KAR 007:080	12-11-1996	03-06-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 007:090	10-13-1999	10-13-1999	06-27-2018	Remain in Effect without Amendment
805 KAR 007:100	08-06-2007	08-06-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 008:010	09-16-2002	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 008:030	09-16-2002	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 008:040	09-16-2002	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 008:050	09-16-2002	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 008:060	09-16-2002	09-02-2010	06-27-2018	Remain in Effect without Amendment
805 KAR 009:010	06-08-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:020	06-09-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:030	06-10-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:050	06-11-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:060	06-12-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:070	06-13-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:080	06-14-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:090	06-15-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:100	06-16-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 011:001	08-23-2007	08-23-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 011:010	08-23-2007	08-23-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 011:020	08-23-2007	08-23-2007	06-27-2018	Remain in Effect without Amendment
807 KAR 005:001	04-07-1982	10-31-2014	03-27-2019	Remain in Effect without Amendment
807 KAR 005:006	04-07-1982	01-04-2013	03-27-2019	Remain in Effect without Amendment
807 KAR 005:007	08-20-1999	08-20-1999	03-27-2019	Remain in Effect without Amendment
807 KAR 005:011	06-02-1982	10-31-2014	03-27-2019	Remain in Effect without Amendment
807 KAR 005:013	09-25-1995	09-25-1995	03-27-2019	Remain in Effect without Amendment
807 KAR 005:016	04-07-1982	04-07-1982	03-27-2019	Remain in Effect without Amendment
807 KAR 005:022	03-31-1984	08-06-2018	03-27-2019	Remain in Effect without Amendment
807 KAR 005:026	04-07-1982	08-06-2018	03-27-2019	Remain in Effect without Amendment
807 KAR 005:027	01-06-1983	05-04-2018	03-27-2019	Remain in Effect without Amendment
807 KAR 005:041	04-07-1982	04-04-1991	03-27-2019	Remain in Effect without Amendment
807 KAR 005:046	04-07-1982	04-07-1982	03-27-2019	Remain in Effect without Amendment
807 KAR 005:054	04-07-1982	03-08-1990	03-27-2019	Remain in Effect without Amendment
807 KAR 005:056	04-07-1982	04-07-1982	03-27-2019	Remain in Effect without Amendment
807 KAR 005:058	12-18-1990	07-21-1995	03-27-2019	Remain in Effect without Amendment
807 KAR 005:061	04-07-1982	04-04-1991	03-27-2019	Remain in Effect without Amendment
807 KAR 005:062	07-18-1996	07-19-1996	03-27-2019	Remain in Effect without Amendment
807 KAR 005:063	08-27-1997	10-09-2002	03-27-2019	Remain in Effect without Amendment
807 KAR 005:066	04-07-1982	06-07-1992	03-27-2019	Remain in Effect without Amendment
807 KAR 005:067	09-02-1981	10-18-2013	03-27-2019	Remain in Effect without Amendment
807 KAR 005:068	07-02-1986	10-31-2014	03-27-2019	Remain in Effect without Amendment
807 KAR 005:069	11-04-1988	10-31-2014	03-27-2019	Remain in Effect without Amendment
807 KAR 005:070	05-19-1999	05-19-1999	03-27-2019	Remain in Effect without Amendment
807 KAR 005:071	04-07-1982	04-07-1982	03-27-2019	Remain in Effect without Amendment
807 KAR 005:075	07-02-1986	10-31-2014	03-27-2019	Remain in Effect without Amendment
807 KAR 005:076	04-07-1982	10-31-2014	03-27-2019	Remain in Effect without Amendment
807 KAR 005:080	12-19-2001	12-19-2001	03-27-2019	Remain in Effect without Amendment
807 KAR 005:090	04-15-2002	04-15-2002	03-27-2019	Remain in Effect without Amendment
807 KAR 005:095	11-13-2002	11-13-2002	03-27-2019	Remain in Effect without Amendment
807 KAR 005:100	10-09-2002	01-06-2012	04-01-2019	Remain in Effect without Amendment
807 KAR 005:110	10-09-2002	10-31-2014	04-01-2019	Remain in Effect without Amendment
807 KAR 005:120	01-14-2005	10-31-2014	03-27-2019	Remain in Effect without Amendment
810 KAR 001:001	05-14-1976	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
810 KAR 001:011	05-14-1976	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
810 KAR 001:120	07-01-2011	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
811 KAR 001:005	06-11-1975	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
811 KAR 001:125	06-11-1976	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20

811 KAR 001:250	07-01-2011	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
811 KAR 002:010	03-10-1976	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
811 KAR 002:060	03-10-1976	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
811 KAR 002:120	05-04-2007	07-06-2009	03-18-2019	To be amended, filing deadline 9-18-20
811 KAR 002:160	07-01-2011	07-01-2011	03-18-2019	To be amended, filing deadline 9-18-20
825 KAR 001:020	06-14-2002	12-07-2006	08-06-2018	Remain in Effect without Amendment
825 KAR 001:030	11-12-2002	11-12-2002	08-06-2018	Remain in Effect without Amendment
900 KAR 002:010	12-01-1982	01-12-1990	03-22-2019	Remain in Effect without Amendment
900 KAR 002:060	03-07-1992	03-07-1992	03-22-2019	Remain in Effect without Amendment
900 KAR 006:040	12-18-1996	12-18-1996	07-30-2018	Remain in Effect without Amendment
901 KAR 005:010	04-09-1975	07-16-2001	04-05-2019	Remain in Effect without Amendment
901 KAR 005:020	04-10-1975	02-02-2007	04-05-2019	Remain in Effect without Amendment
901 KAR 005:040	04-09-1975	01-12-1990	04-05-2019	Remain in Effect without Amendment
901 KAR 005:050	04-09-1975	02-01-2001	04-05-2019	Remain in Effect without Amendment
901 KAR 005:070	04-09-1975	01-10-1994	04-05-2019	Remain in Effect without Amendment
901 KAR 005:080	04-09-1975	10-21-1993	04-05-2019	Remain in Effect without Amendment
901 KAR 005:090	07-02-1975	10-21-1993	04-05-2019	Remain in Effect without Amendment
901 KAR 005:100	09-05-1979	01-12-1990	04-05-2019	Remain in Effect without Amendment
902 KAR 008:040	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:060	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:070	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:080	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:090	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:096	03-09-2006	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:100	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:110	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:120	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 008:140	09-03-1993	04-01-2011	03-22-2019	To be amended, filing deadline 9-22-20
902 KAR 010:081	03-04-1986	09-21-1988	04-05-2019	Remain in Effect without Amendment
902 KAR 011:010	05-04-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 011:020	05-04-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 011:030	05-04-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 011:035	05-04-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 011:040	05-04-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 011:045	05-04-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 011:050	05-04-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 020:009	04-13-1998	12-12-2007	01-11-2019	Remain in Effect without Amendment
902 KAR 020:012	08-05-1981	01-12-1990	01-11-2019	Remain in Effect without Amendment
902 KAR 020:018	11-05-1981	03-14-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 020:410	03-04-2011	03-04-2011	01-11-2019	Remain in Effect without Amendment
902 KAR 045:150	10-09-1984	10-15-2008	04-05-2019	Remain in Effect without Amendment
902 KAR 047:010	06-01-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 047:020	06-01-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 047:030	06-01-1977	03-14-1994	03-22-2019	Remain in Effect without Amendment
902 KAR 047:200	08-12-2009	08-12-2009	03-22-2019	Remain in Effect without Amendment
902 KAR 048:020	02-07-2002	02-07-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 048:030	02-07-2002	02-07-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 048:040	02-07-2002	02-07-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 055:060	06-03-1981	01-10-1994	01-11-2019	Remain in Effect without Amendment
902 KAR 055:065	03-15-1989	03-14-1994	01-11-2019	Remain in Effect without Amendment
902 KAR 055:080	07-17-1991	07-17-1991	01-11-2019	Remain in Effect without Amendment
902 KAR 055:105	12-16-1998	12-16-1998	01-11-2019	Remain in Effect without Amendment
902 KAR 055:115	12-16-1998	12-16-1998	01-11-2019	Remain in Effect without Amendment
902 KAR 115:020	07-26-1995	11-20-1996	04-05-2019	Remain in Effect without Amendment
906 KAR 001:100	03-07-1992	09-01-2006	01-11-2019	Remain in Effect without Amendment
906 KAR 001:110	08-28-1992	07-24-2006	01-11-2019	Remain in Effect without Amendment
906 KAR 001:120	02-17-1998	01-23-2004	01-11-2019	Remain in Effect without Amendment
906 KAR 001:140	10-15-2003	10-15-2003	01-11-2019	Remain in Effect without Amendment
906 KAR 001:160	02-01-2008	10-17-2012	01-11-2019	Remain in Effect without Amendment
906 KAR 001:170	01-05-2009	01-05-2009	01-11-2019	Remain in Effect without Amendment
906 KAR 001:180	06-04-2010	06-04-2010	01-11-2019	Remain in Effect without Amendment
907 KAR 001:260	06-28-1984	01-10-1992	07-23-2018	Remain in Effect without Amendment
907 KAR 001:680	07-26-1995	07-16-2003	07-23-2018	Remain in Effect without Amendment
907 KAR 001:720	11-14-1997	08-12-2002	07-23-2018	Remain in Effect without Amendment
907 KAR 001:755	04-21-1999	04-21-1999	07-23-2018	Remain in Effect without Amendment
907 KAR 001:780	08-18-1999	08-18-1999	07-23-2018	Remain in Effect without Amendment
907 KAR 003:100	08-16-1999	12-02-2010	07-23-2018	Remain in Effect without Amendment
907 KAR 003:125	03-06-2001	01-05-2007	07-23-2018	Remain in Effect without Amendment
907 KAR 003:225	11-01-2013	11-01-2013	07-23-2018	Remain in Effect without Amendment

907 KAR 003:230	11-01-2013	11-01-2013	07-23-2018	Remain in Effect without Amendment
907 KAR 005:005	11-05-2010	11-05-2010	07-23-2018	Remain in Effect without Amendment
907 KAR 006:005	05-06-2011	05-06-2011	07-23-2018	Remain in Effect without Amendment
907 KAR 010:815	06-06-2008	06-06-2008	07-23-2018	Remain in Effect without Amendment
907 KAR 014:005	10-21-2009	01-14-2013	07-23-2018	Remain in Effect without Amendment
910 KAR 001:200	01-10-1992	04-01-2011	08-10-2018	Remain in Effect without Amendment
910 KAR 001:260	12-01-2006	12-11-2012	08-10-2018	Remain in Effect without Amendment
910 KAR 003:020	05-01-2009	05-01-2009	08-10-2018	Remain in Effect without Amendment
920 KAR 001:060	08-18-1999	03-01-2007	07-23-2018	Remain in Effect without Amendment

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 *2017 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: Copies of the technical amendments are usually posted on the Legislative Research Commission Web site for a short time before they are finalized. Regulations are available for viewing on the Legislative Research Commission Web site at https://legislature.ky.gov/law/kar/pages/default.aspx.

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).

Regulation Number	Date Corrected
009 KAR 001:050	09-12-2018
016 KAR 009:040	09-12-2018
020 KAR 001:010	08-14-2018
103 KAR 001:010	09-12-2018
103 KAR 015:180	02-07-2019
103 KAR 016:320	07-16-2018
103 KAR 018:020	07-16-2018
103 KAR 018:090	07-16-2018
104 KAR 001:020	09-12-2018
104 KAR 001:040	09-12-2018
200 KAR 005:365	09-12-2018
200 KAR 012:030	09-12-2018
200 KAR 021:020	11-15-2018
200 KAR 021:040	11-15-2018
200 KAR 021:050	11-15-2018
201 KAR 046:081	09-28-2018
301 KAR 002:132	09-12-2018
401 KAR 039:005	07-09-2018
401 KAR 045:020	10-15-2018
401 KAR 045:025	10-15-2018
401 KAR 045:030	10-15-2018
401 KAR 045:090	10-15-2018
401 KAR 045:130	10-15-2018
401 KAR 045:250	10-15-2018
401 KAR 048:090	10-15-2018
401 KAR 048:200	10-15-2018
401 KAR 048:300	10-15-2018
401 KAR 048:310	10-15-2018
401 KAR 052:020	02-14-2019
401 KAR 052:040	02-14-2019
401 KAR 059:023	02-14-2019
401 KAR 059:046	02-14-2019
401 KAR 059:101	02-14-2019
401 KAR 059:190	02-14-2019
401 KAR 059:210	02-14-2019
401 KAR 059:212	02-14-2019
401 KAR 059:214	02-14-2019
401 KAR 059:225	02-14-2019
401 KAR 059:230	02-14-2019
401 KAR 059:240	02-14-2019
401 KAR 059:315	02-14-2019
401 KAR 061:011	02-14-2019
401 KAR 061:013	02-14-2019
401 KAR 061:045	02-14-2019
401 KAR 061:050	02-14-2019
401 KAR 061:056	02-14-2019
401 KAR 061:060	02-14-2019
401 KAR 061:085	02-14-2019
401 KAR 061:090	02-14-2019
401 KAR 061:095	02-14-2019
401 KAR 061:100	02-14-2019
401 KAR 061:105	02-14-2019
401 KAR 061:110	02-14-2019
401 KAR 061:120	02-14-2019
401 KAR 061:124	02-14-2019
401 KAR 061:125	02-14-2019
401 KAR 061:130	02-14-2019
401 KAR 061:132	02-14-2019
401 KAR 061:135	02-14-2019
401 KAR 061:137	02-14-2019
401 KAR 061:150	02-14-2019
401 KAR 061:155	02-14-2019
401 KAR 061:160	02-14-2019
401 KAR 061:170	02-14-2019
401 KAR 061:175	02-14-2019
401 KAR 063:010	02-14-2019
401 KAR 063:021	02-14-2019
703 KAR 005:280	09-10-2018
804 KAR 004:370	08-01-2018
831 KAR 001:030	11-13-2018
831 KAR 002:001	04-18-2019
831 KAR 002:020	04-18-2019
831 KAR 002:030	04-18-2019
831 KAR 002:040	04-18-2019
900 KAR 006:040	08-02-2018
900 KAR 011:010	07-13-2018
901 KAR 005:120	01-25-2019
902 KAR 030:180	07-18-2018
902 KAR 048:020	09-13-2018
902 KAR 048:030	09-13-2018
	01-25-2019
907 KAR 017:020	06-05-2018
908 KAR 002:250	09-17-2018
910 KAR 001:240	09-17-2018
920 KAR 001:060	07-25-2018
921 KAR 001:400	08-22-2018
921 KAR 001:410	08-22-2018
922 KAR 001:330	03-27-2018
922 KAR 002:100	04-24-2019

ACCOUNTANCY, BOARD OF
Expungement of minor violation; 201 KAR 001:310
Rules of professional conduct; 201 KAR 001:300
Standards of Practice; 201 KAR 001:290

AGING AND INDEPENDENT LIVING
Aging Services
Certification of assisted-living communities; 910 KAR 001:240
Personal care attendant program and assistance services; 910 KAR 1:090
Referral process for adult guardianship; 910 KAR 002:020

AGRICULTURE
Agricultural Pest Control
Certification and licensing, pesticides; 302 KAR 027:050
Definitions for 302 KAR Chapter 027; 302 KAR 027:010
Fine schedule for violation of KRS 217B.120; 302 KAR 027:060
General provisions; 302 KAR 027:020
Prison inmates, pesticide licenses for; 302 KAR 027:040
Repeal of 302 KAR 027:030; 302 KAR 027:031
Industrial Hemp
Enforcement, corrective action plans, and mandatory reporting to state and federal agencies, department to retain growing site information for at least three (3) years; 302 KAR 050:090
Materials incorporated by reference; 302 KAR 050:080
Livestock Sanitation
Repeal of 302 KAR 020:210; 302 KAR 020:210
Repeal of 302 KAR 020:220; 302 KAR 020:221
Repeal of 302 KAR 020:231; 302 KAR 020:231
Repeal of 302 KAR 020:054; 302 KAR 020:541
Repeal of 302 KAR 020:561; 302 KAR 020:561
Repeal of 302 KAR 020:057; 302 KAR 020:571
Repeal of 302 KAR 020:058; 302 KAR 020:581
Office of the Commissioner
Repeal of 302 KAR 003:010; 302 KAR 003:011
Ornamental Turf Lawn and Interior Plantscape Pest Control
Certification and licensing, pesticides; 302 KAR 028:050.
Definitions for 302 KAR Chapter 028; 302 KAR 028:010
General provisions; 302 KAR 028:020
Fine schedule violation of KRS 217B.120; 302 KAR 028:060
Ornamental and interior plantscape posting; 302 KAR 028:030
Prison inmates, pesticide licenses for; 302 KAR 028:040
Purchase of Agricultural Conservation Easement Corporation;
Repeal of 302 KAR 100:010; 302 KAR 100:011
Repeal of 302 KAR 100:020; 302 KAR 100:021
Referendums
Repeal of 302 KAR 001:010, 302 KAR 001:020, 302 KAR 001:030, 302 KAR 001:035, 302 KAR 001:040, 302 KAR 001:050, 302 KAR 001:055, 302 KAR 001:070, and 302 KAR 001:080; 302 KAR 001:011
Regulation and Inspection; General
Repeal of 302 KAR 007:010 and 302 KAR 077:030; 302 KAR 077:011
Structural Pest Control
General provisions; 302 KAR 29:020
Weights and Measures
Requirements to establish fee schedules for calibrations, adjustments, weights and measures; 302 KAR 085:010

AGRICULTURE EXPERIMENT STATION
Commercial Feeds
Brand and product names; 012 KAR 002:016
Definitions for 12 KAR Chapter 2; 012 KAR 002:006
Directions for use and precautionary statements; 012 KAR 002:031
Drug and feed additives; 012 KAR 002:041
Expression of guarantees; 012 KAR 002:021
Guaranteed analysis; 012 KAR 002:018
Ingredients; 012 KAR 002:026
Label format; 012 KAR 002:011
List of manufacturers; 012 KAR 002:056
Manufacturing conditions; 012 KAR 002:051
Non-protein; 012 KAR 002:036
Poisonous or deleterious substances; 012 KAR 002:046
Product purpose statement; 012 KAR 002:017
Registration; 012 KAR 002:061
Suitability; 012 KAR 002:066
Pet food
Additives, drugs and pet food; 012 KAR 003:037
Brand and product names; 012 KAR 003:017
Calorie content, statements of; 012 KAR 003:042
Definitions; 012 KAR 003:007
Descriptive terms; 012 KAR 003:028
Feeding directions; 012 KAR 003:032
Guarantees, expression of; 012 KAR 003:022
Ingredients; 012 KAR 003:027
Label format and labeling; 012 KAR 003:012
Nutritional adequacy; 012 KAR 003:039

ALCOHOLIC BEVERAGE CONTROL
Advertising Distilled Spirits and Wine
Consumer sampling events; 804 KAR 001:110
Product development and marketing samples; 804 KAR 001:070
Prohibited alcoholic beverage advertisements; 804 KAR 001:030
Advertising Malt Beverages
Repeal of 804 KAR 002:015; 804 KAR 002:016
Conduct of Business; Employees
Repeal of 804 KAR 005:020; 804 KAR 005:021
Licensing
Repeal of 804 KAR 004:010; 804 KAR 004:011
Malt Beverage, Equipment, Supplies, and Service
Repeal of 804 KAR 011:030; 804 KAR 011:031
Retail Premises
Alcoholic beverage inventory during prohibited alcoholic beverage sales period; 804 KAR 007:020
Repeal of 804 KAR 007:030; 804 KAR 007:031
Transportation of Alcoholic Beverages
Identification of vehicles used to transport alcoholic beverages; 804 KAR 008:050

AUCTIONEERS, KENTUCKY BOARD OF
Standards of conduct and complaints; 201 KAR 3:045

AUDITOR OF PUBLIC ACCOUNTS
Audits
Audits and fiscal courts; 045 KAR 001:050

ATTORNEY GENERAL
Office of Consumer Protection
Visual aid glasses seller annual registration requirements; 40 KAR 002:245

BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES
Substance Abuse
Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities; 908 KAR 001:370
Licensure of nonhospital-based outpatient alcohol and other drug treatment entities; 908 KAR 001:374
Licensure of residential alcohol and other drug treatment entities; 908 KAR 001:372
Repeal of 908 KAR 001:340; 908 KAR 001:341

BOARDS AND COMMISSIONS
See also Occupations and Professions
See listing below for specific subject headings:
Board of Accountancy; 201 KAR Chapter 001
Boxing and Wrestling Commission; 201 KAR Chapter 027
Cosmetology, 201 KAR Chapter 012
Chiropractic Examiners; 201 KAR Chapter 021
Dentistry; 201 KAR Chapter 008
Licensure for Marriage and Family Therapists; Chapter 032
Medical Imaging and Radiation Therapy; 201 KAR Chapter 047

Medical Licensure; 201 KAR Chapter 009
Nursing; 201 KAR Chapter 020
Occupational Therapy; 201 KAR Chapter 028
Ophthalmic Dispensers; 201 KAR Chapter 013
Optometric Examiners; 201 KAR Chapter 005
Pharmacy; 201 KAR Chapter 002
Physical Therapy; 201 KAR Chapter 022
Psychology; 201 KAR Chapter 026
Social Work; 201 KAR Chapter 023

BOXING AND WRESTLING COMMISSION
Definitions for 201 KAR Chapter 027; 201 KAR 027:005
General requirements for boxing and kickboxing shows; 201 KAR 027:011
General requirements for mixed martial arts matches, shows, or exhibitions; 201 KAR 027:016
License requirements and fees; 201 KAR 027:008
Repeal of 201 KAR 027:017; 201 KAR 027:022
Tickets; 201 KAR 027:020

CHIROPRACTIC EXAMINERS
Code of ethical conduct and standards of practice; 201 KAR 021:015
Licensing; standards; fees; 201 KAR 021:041
Specialties; 201 KAR 021:045
Standards, application, and approval of continuing education; 201 KAR 021:042

CLAIMS COMMISSION
Tax Appeals
Tax appeal procedures; 802 KAR 001:010

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Allocation of block grant funding assistance for emergency medical services; 202 KAR 007:520
Posting of fee schedules of licensed ambulance providers; 202 KAR 007:575

COMMUNITY BASED SERVICES
Child Welfare
Educational and training vouchers; 922 KAR 001:500
Foster care and adoption permanency services; 922 KAR 001:140
Federal Title IV-E adoption assistance; 922 KAR 001:060
Foster care and adoption permanency services; 922 KAR 001:140
Independent non-relative adoptions; 922 KAR 001:010
Licensure of child-caring facilities and child-placing agencies; 922 KAR 001:305
Post-adoption placement stabilization services; 922 KAR 001:530
Private child care placement, levels of care, and payment; 922 KAR 001:36
Public agency adoptions922 KAR 001:100
Putative father registry and operating procedures; 922 KAR 001:560
Repeal of 922 KAR 001:410; 922 KAR 001:411
Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers; 922 KAR 001:350
Service array for a relative or fictive kin caregiver; 922 KAR 001:565
Standards for child-placing agencies; 922 KAR 001:310
State funded adoption assistance; 922 KAR 001:050
Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet; 922 KAR 001:495
Day Care
Health and safety standards for centers; 922 KAR 002:120
Child Care Assistance Program; 922 KAR 002:160
Child care Assistance Program; Requirements for registered providers; 922 KAR 002:180
Civil penalties; 922 KAR 002:190
Kentucky All STARS quality-based graduated early childhood rating system for licensed child-care centers and certified family child-care homes; 922 KAR 002:270
Family Support
Child Support Enforcement Program application and intergovernmental process; 921 KAR 001:380
K-TAP, Kentucky Works, Welfare to Work, State Supplementation
Hearings and appeals; 921 KAR 002:055
Supplemental programs for persons who are aged, blind, or have a disability; 921 KAR 0023:015
Supplemental Nutrition Assistance Program
Administrative disqualification hearings and penalties; 921 KAR 003:060
Application process; 921 KAR 003:030
Certification process; 921 KAR 003:035
Claims and additional administrative provisions; 921 KAR 003:050
Fair hearings; 921 KAR 003:070
Technical requirements; 921 KAR 003:025

CORRECTIONS
Corrections policies and procedures; 501 KAR 006:020

COSMETOLOGY
Education requirements and school administration; 201 KAR 012:082
Esthetic practices restrictions; 201 KAR 012:280
Fees; 201 KAR 012:260
Licensing, permits, and examinations; 201 KAR 012:030
Repeal of 201 KAR 012:085, 012: 088, 012:120, 012:180, 012:250; 201 KAR 012:251

DEAF AND HARD OF HEARING
Interpreter Referral Services
Definitions for 735 KAR Chapter 2; 735 KAR 002:010
Grievance procedures; 735 KAR 002:060
Interpreter qualifications; 735 KAR 002:030
Interpreter protocols; 735 KAR 002:040
KCDHH Interpreter Referral Services Program parameters; 735 KAR 002:020
Processing of requests for services; 735 KAR 002:050
Telecommunication Devices for the Deaf
Eligibility requirements, application and certification procedures to receive specialized equipment for the deaf, hard of hearing, and speech impaired; 735 KAR 001:010
Processing system - vendor participation, security, maintenance, repair for specialized equipment; 735 KAR 001:020

DENTISTRY
Charity dental practices; 201 KAR 008:581

EDUCATION
Academic Standards
Kentucky Academic Standards for Computer Science Elective; 704 KAR 008:010
Kentucky Academic Standards for Health; 704 KAR 008:030
Kentucky Academic Standards for Mathematics; 704 KAR 008:040
Kentucky Academic Standards for Reading and Writing; 704 KAR 008:020
Kentucky Academic Standards for Physical Education; 704 KAR 008:050
Required Academic Standards for Social Studies; 704 KAR 008:060
Assessment and Accountability
Improvement planning for schools and districts; 703 KAR 005:225
Improvement procedures, schools; 703 KAR 005:280
Repeal of 703 KAR 005:200; 703 KAR 005:211
General Administration
School health services; 702 KAR 001:160
Instruction, Office of
All STARS for Preschool programs; 704 KAR 3:015

Bible Elective Social Studies course; 704 KAR 3:306
Complaint procedures for programs under the Elementary and Secondary Education act of 1965; 704 KAR 003:365
Education of migratory children; 704 KAR 003:292
Minimum requirements for high school graduation; 704 KAR 003:305
Required academic standards; 704 KAR 003:303
Office of Chief State School Officer
District of innovation; 701 KAR 005:140
Nontraditional Instruction Program; 701 KAR 005:150
Office of Learning Support Services
Repeal of 704 KAR 007:080; 704 KAR 007:081
Pupil Transportation
Kentucky's Accountability System; 703 KAR 005:270
School Terms, Attendance, and Operation
Designation of agent to manage middle and high school interscholastic athletics; 702 KAR 007:065

EDUCATION AND WORKFORCE DEVELOPMENT
For Education, see listing below:
Board of Education; KAR Title 701, 702
Education Professional Standards Board; KAR Title 16
Education; KAR Title 704 *(See Education)*
Higher Education Assistance Authority; KAR Title 11 *(See Higher Education Assistance Authority)*
Workforce Development, KAR Title 787 *(See Workforce Development)*
For Workforce Development, see listing below:
Workplace Standards; KAR Title 803 *(See Workplace Standards)*

EDUCATION PROFESSIONAL STANDARDS BOARD
Administrative Certificates
Certifications for advanced educational leaders; 016 KAR 003:090
Repeal of 016 KAR 003:010, 016 KAR 003:020, 016 KAR 003:040, and 016 KAR 003:050; 016 KAR 003:011
Advanced Certification and Rank
Continuing education option for rank change; 016 KAR 008:030
Part-time adjunct instructor certificate; 016 KAR 009:040
Teaching certificates
Junior reserve officers training corps; 016 KAR 002:100
Provisional and professional certificate for orientation and mobility specialist; 016 KAR 002:210

ELECTION FINANCE
Election finance statement forms; campaign contributions or expenditures in excess of $3,000; 032 KAR 001:030
Political organization registration; 032 KAR 001:050
Waiver from filing candidate election finance statement; 032 KAR 001:070

ELECTIONS
Forms and Procedures
Additional and emergency; 031 KAR 004:120
Evaluation of; 031 KAR 004:100
Statewide Voter Registration
Current address of registered voters; 031 KAR 003:010
Voter registration list distribution; 031 KAR 003:010

ENERGY AND ENVIRONMENT CABINET
Environmental Protection, KAR Title 401
Kentucky Nature Preserves, KAR Title 400, 418
Natural Resources; KAR Title 405
Public Service Commission, KAR Title 807
Office of the Secretary
Administration
Administrative discovery; 400 KAR 001:040
Administrative hearings practice provisions; 400 KAR 001:090
Administrative hearings relating to matters brought under KRS 350.310 through 351.375; 400 KAR 001:110
Definitions for 400 KAR Chapter 1; 400 KAR 001:001
General administrative hearing practice provisions relating to matters brought under KRS Chapters 146, 149, 151, 223, 224, and 353; 400 KAR 001:100

ENVIRONMENTAL PROTECTION
Air Quality
Permit application forms; 401 KAR 052:050
Registration of air contaminant sources; 401 KAR 052:070

EXECUTIVE BRANCH ETHICS COMMISSION
Administrative proceedings; 009 KAR 001:030
Pre-administrative proceedings; 009 KAR 001:015

FACILITIES AND SUPPORT SERVICES
State-Owned Buildings and Grounds
Use of State-Owned facilities and grounds; 200 KAR 003:020

FINANCIAL INSTITUTIONS
Administration
Automated teller machines; 808 KAR 001:060
Fees; 808 KAR 001:140.
Licensing and Registration; 808 KAR 001:170
Repeal of 808 KAR 001:020, 001:050, 001:090, 001:120, 001:130, 001:150, and 001:160; 808 KAR 001:161
Use of special restricted funds; 808 KAR 001:180
Administrative Hearing
Record retention; 808 KAR 014 010
Annual reporting; 808 KAR 014:20
Check Cashing
Customer account transfers; 808 KAR 009:040
Deferred deposit database compliance; 808 KAR 009:010
Licensee change of control; 808 KAR 009:050
Repeal of 808 KAR 009:020 and 009:030; 808 KAR 009:031
Credit Unions
Conduct of Credit Unions; 808 KAR 003:050
Repeal of 808 KAR 00:020 and 003:060; 808 KAR 003:061
General
Bank branches, offices, and loan production offices; 808 KAR 015:030
Exceptions to bank lending limits; 808 KAR 015:010
Multibank companies; 808 KAR 015:040
Stay of notice of intention to remove from office; 808 KAR 015:020
Industrial Loans
Consumer Loans
Mandatory availability for repayment; 808 KAR 006:095
Repeal of 808 KAR 005:040; 808 KAR 005:041
Repeal of 808 KAR 006:015, 006:105, 006:115, and 006:120; 808 KAR 006:121
Multibank Companies
808 KAR 011:021. Repeal of 808 KAR 011:020.
Mortgage Loan Companies and Mortgage Loan Brokers
Processing and closing charges for real estate loans to consumers; 808 KAR 012:050
Repeal of 808 KAR 012:002, 012:021, 012:022, 012:023, 012:024, 012:030, and 012:110; 808 KAR 012:111
Uniform standards for mortgage loan processor applicant employee background checks; 808 KAR 012:055

FISH AND WILDLIFE
Fish
Asian Carp and Scaled Rough Fish Harvest Program; 301 KAR 001:152
Aquatic organisms; propagation of; 301 KAR 001:115
Boat and motor restrictions; 301 KAR 001:015
Commercial fishing requirements; 301 KAR 001:155
Sale of live bait; 301 KAR 001:132
Taking of fish by nontraditional fishing methods; 301 KAR 001:410
Taking of fish by traditional fishing methods; 301 KAR 001:201
Game
Commercial guide license; 301 KAR 002:030
Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas; 301 KAR 002:178
Deer hunting seasons, zones, and requirements; 301 KAR

002:172
Dove, wood duck, teal, and other migratory game bird hunting; 301 KAR 002:225
Elk hunting seasons, permits, zones, and requirements; 301 KAR 002:132
Importation of cervid carcasses and parts; 301 KAR 002:095
Hunting and Fishing
License, tag, and permit fees; 301 KAR 003:022
Repeal of 301 KAR 003:090; 301 KAR 003:091
Special commission permits; 301 KAR 003:100
Wildlife
Buying and selling of inedible wildlife parts; 301 KAR 004:090

FOOD STAMPS
Now called Supplemental Nutrition Assistance Program
See Community Based Services; 921 KAR Chapter 3

HEALTH AND FAMILY SERVICES
See listing below for specific subject headings:
Aging and Independent Living; KAR Title 910
Behavioral Health, Developmental and Intellectual Disabilities; KAR Title 908
Community Based Services; KAR Title 921
Inspector General (Health); KAR Title 900, 902, 906
Medicaid Services; KAR Title 895 and 907
Office for Children with Special Health Care Needs; KAR Title 911

HIGHER EDUCATION ASSISTANCE AUTHORITY
Grant Programs
CAP grant award determination procedure; 011 KAR 005:145
KEES Program
http://www.lrc.ky.gov/kar/011/015/010.pdfDefinitions; 11 KAR 015:010
Scholarships for Registered Apprenticeship programs; 011 KAR 015:110
KHEAA Grant Programs
CAP grant award determination procedure; 011 KAR 005:145
Student and Administrative Services
Student aid applications; 011 KAR 004:080

HORSE RACING COMMISSION
Flat and Steeplechase Racing
Claiming races; 810 KAR 004:050
Definitions; 810 KAR 004:001
Entries, subscriptions, and declarations; 810 KAR 004:030
Horses; 810 KAR 004:010
Jockeys and apprentices; 810 KAR 004:070
Objections and complaints; 810 KAR 004:060
Owners; 810 KAR 004:090
Running of the race; 810 KAR 004:040
Steeplechase racing; 810 KAR 004:080
Trainers; 810 KAR 004:100
Weights; 810 KAR 004:020
General
Chemical dependency; 810 KAR 002:030
Definitions; 810 KAR 002:001
Judges and Standardbred racing officials; 810 KAR 002:050
Owners' authorized agents and jockey agents; 810 KAR 002:060
Racing commission and administrative staff; 810 KAR 002:010
Standardbred racing associations; 810 KAR 002:080
Stewards; 810 KAR 002:040
Thoroughbred and flat racing officials; 810 KAR 002:020
Thoroughbred and other flat racing associations; 810 KAR 002:070
Harness Racing
Repeal of 811 KAR 001:010, 811 KAR 001:015, 811 KAR 001:020, 811 KAR 001:025, 811 KAR 001:030, 811 KAR 001:035, 811 KAR 001:037, 811 KAR 001:040, 811 KAR 001:045, 811 KAR 001:050, 811 KAR 001:055, 811 KAR 001:060, 811 KAR 001:065, 811 KAR 001:070, 811 KAR 001:075, 811 KAR 001:080, 811 KAR 001:085, 811 KAR 001:90, 811 KAR 001:093, 811 KAR 001:095, 811 KAR 001:100, 811 KAR 001:105, 811 KAR 001:110, 811 KAR 001:115, 811 KAR 001:120, 811 KAR 001:130, 811 KAR 001:140, 811 KAR 001:150, 811 KAR 001:185, 811 KAR 001:215, 811 KAR 001:220, 811 KAR 001:225, 811 KAR 001:230, 811 KAR 001:260, 811 KAR 001:280, 811 KAR 001:285, 811 KAR 001:290, and 811 KAR 001:300; 811 KAR 001:301
Incentive and Development Funds
Backside improvement fund; 810 KAR 007:010
Kentucky Standardbred development fund and Kentucky Standardbred breeders' incentive fund; 810 KAR 007:040
Kentucky thoroughbred breeders' incentive fund; 810 KAR 007:020
Kentucky thoroughbred development fund; 810 KAR 007:030
Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund; 810 KAR 07:060
Violations, discipline, disputes, and investigation; 810 KAR 007:070
Licensing
Advance deposit account wagering; 810 KAR 003:040
Definitions; 810 KAR 003:001
Licensing of racing associations; 810 KAR 003:010
Licensing of racing participants; 810 KAR 003:020
Licensing totalizator companies; 810 KAR 003:030
Simulcast facilities; 810 KAR 003:050
Medication Guidelines
Medication; testing procedures; prohibited practices; 810 KAR 008:010
Drug, medication, and substance classification schedule and withdrawal guidelines; 810 KAR 008:020
Disciplinary measures and penalties; 810 KAR 008:030
Out-of-competition testing; 810 KAR 008:040
International medication protocol as condition of a race; 810 KAR 008:050
Post-race sampling and testing procedures;
Hearings and Appeals
810 KAR 009:010. Hearings, reviews and appeals.
Pari-Mutuel Wagering
Calculation of payouts and distribution of pools; 810 KAR 006:020
Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing
Repeal of 811 KAR 002:015, 811 KAR 002:020, 811 KAR 002:030, 811 KAR 002:035, 811 KAR 002:040, 811 KAR 002:045, 811 KAR 002:050, 811 KAR 002:056, 811 KAR 002:065, 811 KAR 002:070, 811 KAR 002:075, 811 KAR 002:080, 811 KAR 002:085811 KAR 002:090, 811 KAR 002:093, 811 KAR 002:096, 811 KAR 002:100, 811 KAR 002:105, 811 KAR 002:110, 811 KAR 002:130, 811 KAR 002:140, 811 KAR 002:150, 811 KAR 002:170, 811 KAR 002:180, 811 KAR 002:185, 811 KAR 002:190, 811 KAR 002:200, and 811 KAR 002:300; 811 KAR 002:301
Standardbred Racing
Claiming races; 810 KAR 05:030
Definitions; 810 KAR 005:001
Eligibility and classification; 810 KAR 005:020
Entries and starters; 810 KAR 005:060
Farm, corporate, or stable name; 810 KAR 005:040
Harness racing and county fairs; 810 KAR 005:080
Registration and identification of horses; 810 KAR 005:010
Running of the race; 810 KAR 005:070
Stakes and futurities; 810 KAR 005:050
Thoroughbred Racing
Repeal of 810 KAR 001:004, 810 KAR 001:005, 810 KAR 001:007, 810 KAR 001:008, 810 KAR 001:009, 810 KAR 001:010, 810 KAR 001:012, 810 KAR 001:014, 810 KAR 001:015, 810 KAR 001:016, 810 KAR 001:017, 810 KAR 001:018, 810 KAR 001:021, 810 KAR 001:024, 810 KAR 001:026, 810 KAR 001:027, 810 KAR 001:028, 810 KAR 001:029, 810 KAR 001:030, 810 KAR 001:037, 810 KAR 001:040, 810 KAR 001:050, 810 KAR 001:060, 810 KAR 001:070, 810 KAR 001:080, 810 KAR 001:090, 810 KAR 001:100, 810 KAR 001:110, 810 KAR 001:130, 810 KAR 001:140, 810 KAR 001:145, 810 KAR 001:150, and 810 KAR 001:300; 810 KAR 001:301

HOUSING, BUILDINGS, AND CONSTRUCTION
Boilers and Pressure Vessels
Boiler and pressure vessel licenses; 815 KAR 015:080
Building Code
The Kentucky Certified Building Inspector Program; 815 KAR 007:070
Electrical
815 KAR 035:015. Certification of electrical inspectors
815 KAR 035:020. Electrical inspections
815 KAR 035:060. Licensing of electrical contractors, master electricians, and electricians
815 KAR 035:080. Electrical code of ethics
815 KAR 035:090. Electrical Training Program Standards
815 KAR 035:101. Repeal of 815 KAR 035:100
Elevator Safety
Elevator licensing; 815 KAR 004:030.
Repeal of 815 KAR 004:040, 815 KAR 004:050, 815 KAR 004:060, and 815 KAR 004:070; 815 KAR 004:071
Fire Protection, Sprinkler Contractors, and Inspectors
Repeal of 815 KAR 022:010; 815 KAR 022:011
General Section
Continuing education; 815 KAR 002:010
Continuing education course and provider approval; 815 KAR 002:020
Fees and refunds; 815 KAR 002:040
Vehicle identification; 815 KAR 002:030
Heating, Ventilation, and Air Conditioning Licensing Requirements
Apprentice HVAC mechanic registration and certification requirements; 815 KAR 008:030
Licensing requirements for master contractors and journeyman HVAC mechanics; 815 KAR 008:010
Repeal of 815 KAR 008:020, 815 KAR 008:035, 815 KAR 008:050, 815 KAR 008:060, 815 KAR 008:090, and 815 KAR 008:095; 815 KAR 008:091
Manufactured Homes and Recreational Vehicles
Administration and enforcement of manufactured housing construction standards; 815 KAR 025:050
Alternative dispute resolution and mediation program; 815 KAR 025:100.
Definitions for 815 KAR Chapter 025; 815 KAR 025:011
Fire safety requirements in manufactured and mobile homes; 815 KAR 025:040
Licensing and certifications with manufactured homes and mobile homes; 815 KAR 025:060
Recreational vehicles; 815 KAR 025:020
Repeal of 815 KAR 025:070 and 815 KAR 025:080; 815 KAR 025:081
Site preparation, installation, and inspection requirements; 815 KAR 025:090
Plumbing
Plumbing licenses; 815 KAR 020:030
Repeal of 815 KAR 020:012, 815 KAR 020:015, 815 KAR 020:018, 815 KAR 020:032, 815 KAR 020:034, and 815 KAR 020:040; 815 KAR 020:041
Real Estate Authority: Board of Home Inspectors
Definitions for 815 KAR Chapter 6; 815 KAR 006:001
Education requirements and providers; 815 KAR 006:040
Licensing requirements; 815 KAR 006:010.
Repeal of 815 KAR 006:020, 815 KAR 006:080, 815 KAR 006:090, and 815 KAR 006:100; 815 KAR 006:101
Standards of conduct, complaints, and discipline; 815 KAR 006:030

JUVENILE JUSTICE
Child Welfare
Department of Juvenile Justice Policies and Procedures: Admissions; 505 KAR 001:100
Department of Juvenile Justice Policy and Procedures: Interstate compact for juveniles; 505 KAR 001:190
Department of Juvenile Justice Policy and Procedures Manual: day treatment services; 505 KAR 001:180
Department of Juvenile Justice Policy and Procedures Manual: program services; 505 KAR 001:110
Kentucky Educational Collaborative for state agency children; 505 KAR 001:080

HOUSING, BUILDINGS AND CONSTRUCTION
Kentucky Building Code
Kentucky Building Code; 815 KAR 007:120
Kentucky Residential Code; 815 KAR 007:125

INSPECTOR GENERAL (HEALTH)
Civil Money Penalty Funds collected from certified Long-term Care facilities; 906 KAR 001:200
Inspector General
Repeal of 906 KAR 001:050, 906 KAR 001:060, and 906 KAR 001:070; 906 KAR 1:071E
National background check; 906 KAR 001:190
Kentucky Health Information Exchange
Kentucky Health Information Exchange participation; 900 KAR 009:010
State Health Plan
State Health Plan for facilities and services; 900 KAR 005:020

INSURANCE
Administration
Disclosure of insurance premium surcharge; 806 KAR 002:100
Disclosure of local government taxes and collection fee; 806 KAR 002:092
Repeal of 806 KAR 002:120 and 806 KAR 002:150; 806 KAR 002:121
Agents, Consultants, Solicitors, and Adjusters
Examinations; 806 KAR 009:070
False or deceptive names, titles, prohibited; 806 KAR 009:020
Life settlement licenses; 806 KAR 009:310
Pharmacy Benefit Manager License; 806 KAR 9:360
Prelicensing courses of study; 806 KAR 009:001
Repeal of 806 KAR 009:060; 806 KAR 009:061
Repeal of 806 KAR 009:320; 806 KAR 009:321
Health Insurance Contracts
Disclosure of other coverage in application; 806 KAR 017:020
Medicare supplement insurance policies and certificates, minimum standards for; 806 KAR 17:570
Prompt payment of claims; 806 KAR 017:360
Provider agreement and risk-sharing agreement filing requirements; 806 KAR 017:300
Repeal of 806 KAR 017:010, 806 KAR 017:090, 806 KAR 017:130, 806 KAR 017:310, 806 KAR 017:320, 806 KAR 017:330, 806 KAR 017:440, 806 KAR 017:460, 806 KAR 017:500, 806 KAR 017:540, 806 KAR 017:545, 806 KAR 017:555; 806 KAR 017:091.
Insurance Fraud
Fraud prevention; 806 KAR 047:010
Repeal of 806 KAR 047:020 and 806 KAR 047:030.Kinds of Insurance; Limits of Risk; Reinsurance; 806 KAR 047:021
Repeal of 806 KAR 005:010 and 806 KAR 005:020; 806 KAR 005:011
Surplus Lines
Repeal of 806 KAR 010:050; 806 KAR 010:051807 kar
Surplus lines reporting and tax payment structure; 806 KAR 010:030

JUSTICE AND PUBLIC SAFETY
Asset Forfeiture
Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040; 500 KAR 009:011
Corrections, KAR Title 501
Juvenile Justice; KAR 505
Kentucky Law Enforcement Council
Department of Criminal justice Training basic training graduation requirements; records; 503 KAR 001:110
Motorcycle Safety Education Commission
Motorcycle safety education program; 500 KAR 015:010
Special Law Enforcement Officers
Special Law Enforcement Officers
Filing and processing SLPO commissions; 500 KAR 003:020

LABOR

See listing below for specific subject headings:
Occupational Safety and Health Review Commission; 803 KAR Chapter 050
Workplace Standards; KAR Title 803 *(See Workplace Standards)*
Workers' Claims; 803 KAR Chapter 025 *(See Workers' Claims)*
Workers' Compensation Funding Commission, 803 KAR Chapter 030

LICENSURE FOR MARRIAGE AND FAMILY THERAPISTS
Telehealth; 201 KAR 032:110

KENTUCKY LOTTERY CORPORATION
Code of ethics; 202 KAR 003:010
Internal audit; 202 KAR 003:040

MEDICAID SERVICES
Certificate of Need
Certificate of need application fee schedule; 900 KAR 006:020
Certificate of need nonsubstanstive review; 900 KAR 006:075
Commissioner's Office
Repeal of 900 KAR 001:090; 900 KAR 001:091
Health Benefit Exchange
Repeal of 900 KAR 010:010, 900 KAR 010:020, and 900 KAR 010:110; 900 KAR 010:021
Hospital Service Coverage and Reimbursement
Disproportionate share hospital distributions; 907 KAR 010:820
Medicaid
Accommodation, modifications, and appeals for beneficiaries participating in the Kentucky HEALTH program; 895 KAR 001:045
Beneficiary premiums; 895 KAR 001:025
Covered services within the Kentucky HEALTH program; 895 KAR 001:035
Deductible accounts within the Kentucky HEALTH program; 895 KAR 001:040
Definitions for 895 KAR Chapter 001; 895 KAR 001:001
Designation or determination of medically frail status or accommodation due to temporary vulnerability in the Kentucky HEALTH program; 895 KAR 001:055
Eligibility for Kentucky HEALTH program; 895 KAR 001:010
Enrollment and reimbursement for providers in the Kentucky HEALTH program; 895 KAR 001:050
Establishment and use of the MyRewards program; 895 KAR 001:030
PATH requirement for the Kentucky HEALTH program; 895 KAR 001:020
Premium payments within the Kentucky HEALTH programs; 895 KAR 001:015
Medical Review Panels
Medical review panels; 900 KAR 011:010
Medicaid Services
Hearings and appeals for individuals with intellectual disability; 907 KAR 001:075
Hospice services; 907 KAR 001:330
Medicaid covered services appeals and hearings unrelated to managed care; 907 KAR 001:563
Medicaid hearings and appeals regarding eligibility; 907 KAR 001:560
Nonduplication of payments; 907 KAR 001:005
Nursing facility services and intermediate care facility for individuals with an intellectual disability; 907 KAR 001:022
Payment for nursing facility services provided by an intermediate care facility for individuals with an intellectual disability, a dually-licensed pediatric facility, an institution for mental diseases, or a nursing facility with an all-inclusive rate unit; 907 KAR 001:025
Payments for podiatry program services; 907 KAR 001:280
Podiatry program services; 907 KAR 001:270
Preadmission Screening and Resident Review Program; 907 KAR 001:755
Preventative and remedial public health services; 907 KAR 001:360
Recipient cost-sharing; 907 KAR 001:604
Reimbursement for hospice services; 907 KAR 001:340
Repeal of 907 KAR 001:120 and 907 KAR 001:130; 907 KAR 001:121
Repeal of 907 KAR 001:436; 907 KAR 001:441
Occupational, Physical, and Speech Therapy
Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities; 907 KAR 008:040
Office of Health Data and Analytics
Data reporting by health care providers; 900 KAR 007:030
Office of Inspector General
Citations and violations; criteria and specific acts; 900 KAR 002:040
Repeal of 900 KAR 002:020; 900 KAR 002:021
Payments and Services
Telehealth service coverage and reimbursement; 907 KAR 003:170
Program Integrity
Health Insurance Premium Payment (HIPP) Program; 907 KAR 005:005

MEDICAL IMAGING AND RADIATION THERAPY
Definitions for 201 KAR Chapter 046; 201 KAR 046:010
Education for medical imaging technologists, advanced imaging professionals, nuclear medicine technologists, radiographers, and radiation therapists; 201 KAR 046:030
Fees; 201 KAR 046:020
Limited X-Ray machine operator; 201 KAR 046:081
Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses; 201 KAR 046:040
Temporary license application for medical imaging technologists, advanced imaging professionals, radiographers, nuclear medicine technologists, and radiation therapists; 201 KAR 046:045

MEDICAL LICENSURE
Professional standards for prescribing and dispensing controlled substances; 201 KAR 009:260

MILITARY AFFAIRS
Disaster and Emergency Services
Kentucky Emergency Response Commission (KERC) fee account grant distribution formula; 106 KAR 001:121
Kentucky Emergency Response Commission (KERC) fee account grant review committee; 106 KAR 001:111
Kentucky Emergency Response Commission (KERC) fee account grant requirements for Local Emergency Planning Committees (LEPCs); 106 KAR 001:091
Kentucky Emergency Response Commission (KERC) fee account grant requirements for state agencies; 106 KAR 001:101
Kentucky Emergency Response Commission (KERC) Tier II reporting and fee schedule requirements; Extremely Hazardous Substance (EHS) facility planning participation requirements; 106 KAR 001:081

MINE PERMITS
Definitions for 405 KAR Chapter 010; 405 KAR 010: 001.
General bonding provisions; 405 KAR 010:015

MINE SAFETY
Mining Safety Standards
Equipment use and operation; 805 KAR 003:100
Miner Training, Education and Certification
Training, certification, and annual retraining of mine emergency technicians; 805 KAR 007:080

NATURAL RESOURCES
Coal Bed Methane; *805 KAR Chapter 009*
Forestry, *KAR Title 402*
Mining
Permits; *KAR Title 405*
Mine Safety; *805 KAR Chapters 003, 007 & 008*
Natural Resources; *805 KAR Chapter 003*

Oil and Gas; *805 KAR Chapter 001*
Waste Management; *401 KAR Chapter 039*

NATURE PRESERVES
General Administrative Procedures
Administrative procedures of the board; 418 KAR 001:020
Definitions for 418 KAR Chapter 1; 418 KAR 001:010
Grant applications; 418 KAR 001:040
Management; 418 KAR 001:060
Procedures for acquisition of land; 418 KAR 001:050
Remedies; 418 KAR 001:070
Office of Kentucky Nature Preserves
Dedication of nature preserves and registration of natural areas; 400 KAR 002:080
Definitions; 400 KAR 002:060
Hearings and appeals; 400 KAR 002:100
Management, use, and protection of nature preserves and natural areas; 400 KAR 002:090
The Office of Kentucky Nature Preserves; 400 KAR 002:070
Rare Plant Recognition
Criteria for identifying and designating endangered or threatened species of plants; 400 KAR 003:020
Definitions for 400 KAR Chapter 3; 400 KAR 003:010
Endangered or threatened plant list; 400 KAR 003:040
Procedures for inclusion, removal or change of status of plant species on the state endangered or threatened list; 400 KAR 003:030
Wild Rivers
Definitions for 400 KAR Chapter 4; 400 KAR 004:110
Wild rivers administration; 400 KAR 004:125

NURSING
Advanced practice registered nurse licensure and certification requirements; 201 KAR 020:056
Continuing approval and periodic evaluation; 201 KAR 020:360
Continuing competency requirements; 201 KAR 020:215
Disciplinary proceedings; 201 KAR 020:162
Faculty for prelicensure registered nurse and practical nurse programs; 201 KAR 020:310
Fees for applications and for services; 201 KAR 020:240
Fines for programs of nursing; 201 KAR 020:362
Investigation and disposition of complaints; 201 KAR 020:161
Licensed practical nurse infusion therapy scope of practice; 201 KAR 020:49
Nursing continuing education provider approval; 201 KAR 020:220
Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing; 201 KAR 020:260
Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid disorder; 201 KAR 020:065
Repeal of 201 KAR 020:235, 201 KAR 020:420, 201 KAR 020:430, 201 KAR 020:440, and 201 KAR 020:460; 201 KAR 020:26
Scope and standards of practice of advanced practice registered nurses; 201 KAR 020:057
Standards for advanced practice registered nurse (APRN) programs of nursing; 201 KAR 020:062
Standards for curriculum of prelicensure registered nurse and practical nurse programs; 201 KAR 020:320
Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs; 201 KAR 020:280
Students in prelicensure registered nurse and practical nurse programs; 201 KAR 020:340
Sexual Assault Nurse Examiner Program standards and credential requirements; 201 KAR 020:411

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
Hearings: procedure, disposition; 803 KAR 050:010

OCCUPATIONAL THERAPY
See also: Medicaid Services: Occupational, Physical, and Speech Therapy; 907 KAR Chapter 8
Deep physical agent modalities; 201 KAR 028:170
Licensure, renewals and requirements; 201 KAR 028:060
Repeal of 201 KAR 028:020: 201 KAR 028:090, 201 KAR 028:110, 201 KAR 028:180, and 201 KAR 028:210; 201 KAR 028:021

OFFICE FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS
Aging Services
Application to office for children with special health care needs clinical programs; 911 KAR 001:010
Billing and fees; 911 KAR 001:020
Office for children with special health care needs medical staff; 911 KAR 001:060
Repeal of 911 KAR 001:070 and 911 KAR 001:080; 911 KAR 001:071

OFFICE OF EMPLOYMENT AND TRAINING
Unemployment Insurance
Application for employer account; reports; 787 KAR 001:010

OIL AND GAS
Comment period for pooling of oil and gas shallow wells; 805 KAR 001:210

OPHTHALMIC DISPENSERS
Apprentices; 201 KAR 013:050
Continuing education requirements; 201 KAR 013:055
Licensing; 201 KAR 013:040
Military service; reciprocity; endorsement; 201 KAR 013:060

OPTOMETRIC EXAMINERS
Fee, annual renewal; 201 KAR 005:090

PERSONNEL CABINET
Classified
Compensation; 101 KAR 002:034
Classified compensation administrative regulations; 101 KAR 002:034
General Service requirements; 101 KAR 002:095
Job classification plan; 101 KAR 002:020
Plan Year Handbook for the Public Employee Health Insurance Program; 101 KAR 002:210
Vacancies, detail to special duty and temporary overlap; 101 KAR 002:076
Unclassified
Compensation and pay incentives; 101 KAR 003:045
Service, promotion, transfer, disciplinary actions; 101 KAR 003:050

PHARMACY
Continuing education; 201 KAR 002:015
Pharmacy services in long-term care facility (LTCF); 201 KAR 002:370

PHYSICAL THERAPY
Eligibility and credentialing procedure; 201 KAR 022:020
Fees; 201 KAR 022:135
Physical Therapy Compact Commission; 201 KAR 022:170
Procedure for renewal or reinstatement of a credential for a physical therapist or physical therapist assistant; 201 KAR 022:040
Requirements for foreign-educated physical therapists and physical therapist assistants; 201 KAR 022:070

POSTSECONDARY EDUCATION
Public Educational Institutions
Guidelines for admission to the state-supported postsecondary education institutions; 013 KAR 002:020

PROFESSIONAL LICENSING

Athlete Agent Registry
Registration and Fees; 830 KAR 002:010
Occupations and Professions, Athlete Agents
Repeal of 200 KAR 030:010, 030:020, 030:030, 030:040, and 030:070; 200 KAR 030:011
Registry
Complaints; 830 KAR 002:020
Definitions; 830 KAR 002:001
Registration and fees; 830 KAR 2:010
Secondary Metals Recyclers
Forms for application, certificate of registration, fees; 830 KAR 001:010

PUBLIC PROTECTION CABINET
See listing below for specific subject headings:
Alcoholic Beverage Control*; KAR Title 804 (See Alcoholic Beverage Control)*
Professional Licensing; *KAR Title 830 (See Professional Licensing)*
Secondary Metals Recyclers*; 830 KAR Chapter 1*
Charitable Gaming; *KAR Title 820*
Claims Commission; *KAR Title 107*
Financial Institutions; *KAR Title 808*
Horse Racing Commission, KAR Title 810
Housing, Buildings and Construction; *KAR Title 815 (See Housing, Buildings and Construction)*
Insurance; KAR Title 806 *(See Insurance)*

PUBLIC HEALTH
Controlled Substances
Repeal of 902 KAR 055:010; 902 KAR 055:011E
Food and Cosmetics
Body piercing and ear piercing; 902 KAR 045:070
Home-based processors and farmers market home-based microprocessors; 902 KAR 045:090
Kentucky food code; 902 KAR 045:005
Kentucky food processing, packaging, storage, and distribution operations; 902 KAR 045:160
Repeal of 902 KAR 045:006 and 902 KAR 045:140; 902 KAR 045:007
Tattooing; 902 KAR 045:065
Training facilities; 902 KAR 045:075
Epidemiology and Health Planning
Rabies control; 902 KAR 002:070.
Hazardous Substances
Repeal of 902 KAR 047:040, 902 KAR 047:050, 902 KAR 047:060, and 902 KAR 047:070; 902 KAR 047:071
Health Services and Facilities
Hospital-owned pain management clinics; 902 KAR 020:260
Freestanding or mobile technology; 902 KAR 020:275
License procedures and fee schedule; 902 KAR 020:008
Medically managed intensive inpatient withdrawal management; 902 KAR 020:111
Operation and services; nursing facilities; 902 KAR 020:300
Operation and services; personal care homes; 902 KAR 020:036
Repeal of 902 KAR 020:058, 902 KAR 020:145, 902 KAR 020:190, and 902 KAR 020:400; 902 KAR 020:401E
Repeal of 902 KAR 020:250; 902 KAR 020:251
Repeal of 902 KAR 020:073; 902 KAR 020:076
Kentucky Birth Surveillance Registry
Kentucky Birth Surveillance Registry; 902 KAR 019:010
Local Health Departments
Local health department accounting and auditing requirements; 902 KAR 008:165
Local health department financial management requirements; 902 KAR 008:170
Milk and Milk Products
902 KAR 050:110. Grade A milk and milk products standards and Grade A milk sanitation requirements.
Repeal of 902 KAR 050:100; 902 KAR 050:101
Mobile Homes and Recreational Vehicles Parks; Facilities Standards
Manufactured and mobile homes; 902 KAR 015:010
Radiology
Licenses and radiation safety requirements for well logging; 902 KAR 100:142
Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations; 902 KAR 100:100
Licensing requirements for land disposal of radioactive waste; 902 KAR 100:022
Medical use of byproduct material; 902 KAR 100:072.
Packaging and transportation of radioactive material; 902 KAR 100:070
Repeal of 902 KAR 100:017, 902 KAR 100:060, and 902 KAR 100:090; 902 KAR 100:018
Specific domestic licenses of broad scope for by product material; 902 KAR 100:052.
Sanitation
Kentucky youth camps; 902 KAR 010:040
Repeal of 902 KAR 010:050; 902 KAR 010:051

PUBLIC SERVICE COMMISSION
Utilities
Fuel adjustment clause; 807 KAR 005:056
Gas service; 807 KAR 5:022
Gas service; gathering systems; 807 KAR 5:026

PSYCHOLOGY
Continuing education; 201 KAR 026:175
Education requirements; 201 KAR 026:200
Grievances and administrative complaints; 201 KAR 026:130
Licensed psychological associate: application procedures and temporary license; 201 KAR 026:280
Procedures for disciplinary hearings; 201 KAR 026:140
Repeal of 201 KAR 026:210; 201 KAR 026:211
Requirements for supervision; 201 KAR 026:171

REAL ESTATE AUTHORITY
Auctioneers *(See Auctioneers, Kentucky Board of)*

RETIREMENT
General Rules
Involuntary cessation of participating employers; 105 KAR 001:147
Voluntary cessation of participation by employers; 105 KAR 001:145

REVENUE
Income Tax; Corporations
Corporation income taxes policies and circulars; 103 KAR 016:352
Repeal of 103 KAR 016:010, 103 KAR 016: 210, 103 KAR 016: 310, and 103 KAR 016:360; 103 KAR 016:011
Income Tax; General Administration
Biodiesel tax credit; 103 KAR 015:140
Cellulosic ethanol tax credit; 103 KAR 015:120
Endow Kentucky Tax Credit; 103 KAR 015:195
Ethanol tax credit; 103 KAR 015:110
Filing dates and extensions; 103 KAR 015:050
Kentucky new markets development program tax credit; 103 KAR 015:180
Repeal of 103 KAR 15:040 and 103 KAR 15:090; 103 KAR 015:041.
Taxation of federal and certain nonfederal obligations; 103 KAR 001:130
Waiver of penalties; 103 KAR 001:040
Income Tax; Corporations
Appointment and allocation; alternative apportionment; separate accounting; 103 KAR 016:330
Appointment; payroll factor; 103 KAR 016:090
Appointment; property factor; 103 KAR 016:290
Apportionment; receipts factor; 103 KAR 016:270
Completed contract method; 103 KAR 016:340
Income classification; apportionable and nonapportionable; 103 KAR 016:060
Intangible expenses, intangible interest expense, and management fees; 103 KAR 016:230

Net operating loss computation and deduction for corporations; 103 KAR 016:250
Nexus standard for corporations and pass-through entities; 103 KAR 016:240
Repeal of 103 KAR 016:100, 103 KAR 016:110, 103 KAR 016:120, 103 KAR 016:130, 103 KAR 016:145, and 103 KAR 016:150; 103 KAR 016:151
Repeal of 103 KAR 016:380; 103 KAR 016:381
Income Tax; Individual
Combined individual returns; 103 KAR 017:020
Division of income between married individuals filing separate tax returns; 103 KAR 017:100
Income subject to taxation; portions; 103 KAR 017:060
Individual income tax – military personnel – nonresidents; 103 KAR 017:130
Individual income tax – reciprocity – nonresidents; 103 KAR 017:140
Repeal of 103 KAR 017:041; 103 KAR 017:042
Residence; 103 KAR 017:010
Income Tax; Withholding
Employer's withholding reporting requirements; 103 KAR 018:150
Kentucky economic development acts wage assessment; 103 KAR 018:180
Repeal of 103 KAR 018:080 and 103 KAR 018:160; 103 KAR 018:081
Repeal of 103 KAR 018:190. 103 KAR 018:200, 103 KAR 018: 210, and 103 KAR 018:220; 103 KAR 018:191
Security for compliance; bonds; 103 KAR 018:120
Voluntary withholding; 103 KAR 018:110
Withholding statements; 103 KAR 018:050
Income Tax; Miscellaneous
Computation of income; estates and trusts; 103 KAR 019:010

TEACHERS' RETIREMENT SYSTEM
Collection of life insurance benefits; 102 KAR 001:163
Qualified domestic relations orders; 102 KAR 001:320
Refunds; 102 KAR 001:060.
Survivor's benefits; 102 KAR 001:168

TRANSPORTATION
See Vehicle Regulation; KAR Title 601
Preconstruction
Prequalification for construction, certificate of eligibility, and contract claims dispute; 603 KAR 002:015.
Traffic
Motor vehicle dimension limits; 603 KAR 005:070

SOCIAL WORK
Complaint procedure, disciplinary action, and reconsideration; 201 KAR 023:150

UTILITIES
See Public Service Commission; KAR Title 807

VEHICLE REGULATION
Motor Carriers
Ignition interlock; 601 KAR 2:030

WASTE MANAGEMENT
Hazardous Waste
General requirements; 401 KAR 039:060
Hazardous waste handlers; 401 KAR 039:080
Hazardous waste permit program; 401 KAR 039:090
Enforcement and Compliance Monitoring
Repeal of 401 KAR 040:050; 401 KAR 040:051
Underground Storage Tanks
Definitions for 401 KAR Chapter 042; 401 KAR 042:005
Petroleum Storage Tank Environmental Assurance Fund reimbursement; 401 KAR 042:250
Repeal of 401 KAR 042:011, 042:030, 042:040, 042:045, 042:050, 042:070, 042:080, 042:090, 042:095, 042:200, 042:290, 042:300, 042:316, 042:320, 042:335, and 042:340; 401 KAR 042:341
Small Owners Tank Removal Account; 401 KAR 042:330
UST system release and corrective action requirements; 401 KAR 042:060
UST system requirements, notification, registration, and annual fees; 401 KAR 042:020

WORKERS' CLAIMS
Continuation of medical benefits; 803 KAR 025:290
Fee schedule for physicians; 803 KAR 25:089
Pharmaceutical formulary; 803 KAR 025:270

WORKERS' COMPENSATION FUNDING
Repeal of 803 KAR 030:020; 803 KAR 030:021
Special fund assessments; 803 KAR 030:010

WORKFORCE DEVELOPMENT CABINET
Workers' Claims; 803 KAR Chapter 25 *(See Workers' Claims)*
Labor; KAR Title 803
Office of Employment and Training; KAR Title 787

WORKPLACE STANDARDS
Workers' Claims; 803 KAR Chapter 25 *(See Workers' Claims)*
Occupational Safety and Health
Cranes and derricks in construction; 803 KAR 002:505
Recordkeeping, reporting, statistics; 803 KAR 002:180
Toxic and hazardous substances; 803 KAR 002:320