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ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, May 15, 2020.

MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is tentatively scheduled to meet on June 9, 2020, at 1:00 p.m. in room 171 Capitol Annex.
ARRS Tentative Agenda – [2857-](#) [Updated as needed online](#)

The **Education Assessment and Accountability Review Subcommittee** is tentatively scheduled to meet on June 11, 2020 at 9 a.m.. in room 171 Capitol Annex.

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

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, June 9, 2020, at 1:00 p.m., Room 171 Capitol Annex

1. CALL TO ORDER AND ROLL CALL
2. REGULATIONS FOR COMMITTEE REVIEW

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Notary Public

[030 KAR 008:005 & E](#). Notary public application; requirements for notarial acts performed with respect to electronic records and for remotely located individuals; notary public discipline. ("E" expires 08-30-2020) (Amended After Comments)

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[302 KAR 010:015](#). Egg grading and classification. (Amended After Comments)

[302 KAR 010:025](#). License application, refusal, revocation, suspension, and appeals. (Not Amended After Comments)

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Office of the State Veterinarian

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[803 KAR 002:400](#). Adoption of 29 C.F.R. Part 1926 Subpart A.

[803 KAR 002:403](#). Occupational health and environmental controls.

[803 KAR 002:404](#). Personal protective and lifesaving equipment.

[803 KAR 002:406](#). Signs, signals, and barricades.

[803 KAR 002:407](#). Materials handling, storage, use and disposal.

[803 KAR 002:418](#). Underground construction, caissons, cofferdams, and compressed air.

[803 KAR 002:422](#). Rollover protective structures; overhead protection.

[803 KAR 002:425](#). Toxic and hazardous substances.

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Department for Community Based Services

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[921 KAR 002:015 & E](#). Supplemental programs for persons who are aged, blind, or have a disability. ("E" expires 08-23-2020) (Not Amended After Comments) (Deferred from May)

3. REGULATIONS **REMOVED** FROM JUNE'S AGENDA

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Office of the Consumer and Environmental Protection

Industrial Hemp

[302 KAR 050:012](#). Repeal of 302 KAR 050:040 and 302 KAR 050:050. (Comments Received; SOC ext., due 06-15-2020)

[302 KAR 050:020](#). Policies and procedures for hemp growers. (Comments Received; SOC ext., due 06-15-2020)

[302 KAR 050:030](#). Policies and procedures for hemp processors and handlers. (Comments Received; SOC ext., due 06-15-2020)

[302 KAR 050:055](#). Sampling and THC testing, post-testing actions, disposal of noncompliant harvests. (Comments Received; SOC ext., due 06-15-2020)

[302 KAR 050:060](#). Fees for the Hemp Licensing Program and forms. (Comments Received; SOC ext., due 06-15-2020)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
Overview for Regulations Filed BEFORE noon, July 15, 2019
(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.

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
Overview for Regulations Filed AFTER noon, July 15, 2019
(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file all proposed administrative regulations with the Regulations Compiler. Filed regulations shall include public hearing and comment period information; a regulatory impact analysis and tiering statement; a fiscal note on state and local government; and, if applicable, a federal mandate comparison and any required incorporated material. 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 a proposed administrative regulation, which shall be held between the 21st and the last workday of the month following the month of publication. Written comments shall also be accepted until the end of the calendar month in which the public hearing was scheduled.

Information about the public comment period shall include: the place, time, and date of the hearing; the manner in which a person may submit written comments or a notification to attend the hearing; a statement specifying that unless a notification to attend the hearing is received no later than 5 workdays prior to the hearing date, the hearing may be cancelled; the deadline for submitting written comments; and the name, position, and contact information of the person to whom notifications and written comments shall be sent.

The administrative body shall notify the Compiler, by letter, whether the hearing was held or cancelled and whether or not 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 close of the public comment period.

Review Procedure

After the public hearing and public comment period processes are completed, the administrative regulation will be tentatively scheduled for review at the next meeting of the Administrative Regulation Review Subcommittee. 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. If a quorum is present, unless the administrative regulation is deferred or found deficient, the administrative regulation shall be considered in effect upon adjournment of the appropriate jurisdictional committee meets or 90 days after being referred by LRC, whichever occurs first.

REPRINT

PERSONNEL BOARD
(Amendment)

101 KAR 1:325. Probationary periods.

RELATES TO: KRS 18A.005, 18A.0751(1)(e), (4)(e), 18A.111
STATUTORY AUTHORITY: KRS 18A.005, 18A.075(1),
18A.0751(1)(e), (4)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075(1) requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751(1)(e) requires the Personnel Board to promulgate comprehensive administrative regulations for the classified service governing probation. KRS 18A.0751(4)(e) authorizes the Personnel Board to promulgate administrative regulations to establish an initial probationary period in excess of six (6) months for specific job classifications. This administrative regulation establishes the requirements relating to probationary periods.

Section 1. Initial Probationary Period. (1) The initial probationary period shall be computed from the effective date of appointment to the corresponding date in the sixth or final month, depending upon the length of initial probationary period, except as established in KRS 18A.111.

(2) The following job classifications shall require an initial probationary period in excess of six (6) months:

Title Code	Job Classification	Length of Initial Probationary Period
20000538	Golf Course Superintendent I	9 months
20000539	Golf Course Superintendent II	9 months
20000558	Parks Golf Professional	9 months
20000677	State Park Ranger I	9 months
20000562	Resort Park Manager I	12 months
20000563	Resort Park Manager II	12 months
20000564	Resort Park Manager III	12 months
20000568	Parks Program Services Supervisor	9 months
20000569	Parks Camping/Boat Dock Manager	9 months
20000570	Park Business Manager I	12 months
20000571	Park Business Manager II	12 months
20000572	Park Manager I/Historic Site Manager	12 months
20000573	Park Manager II	12 months
20000574	Park Manager III	12 months
20000609	Conservation Officer Recruit	12 months
20000616	Veterans Benefits Field Rep I	9 months
20000618	Veterans Benefits Regional Administrator	9 months
20000672	Facilities Security Sergeant	12 months
20000673	Facilities Security Lieutenant	12 months
20000676	State Park Ranger Recruit	12 months
20000680	Facilities Security Officer II	12 months
20000683	Mounted Patrol Officer Recruit	12 months
20000687	Police Telecommunicator I	12 months
20000688	Police Telecommunicator II	12 months
20000689	Police Telecommunications Shift Supervisor	12 months
20000690	Police Telecommunications Supervisor	12 months
20000692	CVE Inspector I	12 months
20000694	CJIS (Criminal Justice Information System) Compliance Specialist I	12 months
20000695	CJIS Compliance Specialist II	12 months
20000696	CJIS Compliance Specialist III	12 months

20000697	CJIS Compliance Supervisor	12 months
20000698	Transportation Operations Center Specialist I	12 months
20000703	Polygraph Examiner II	12 months
20000704	Polygraph Examiner I	12 months
20000713	Driver's Test Administrator	12 months
20000719	Law Enforcement Training Instructor I	12 months
20000722	Law Enforcement Training Instructor I - Telecommunications	12 months
20000813	Boiler Inspector I	12 months
20000817	HVAC Inspector I	12 months
20000820	Fire Protection Systems Inspector	12 months
20000821	Industrial Hygienist I	12 months
20000834	OSH Compliance Officer I	12 months
20000852	OSH Safety Consultant I	12 months
20000856	Industrial Hygienist Consultant I	12 months
20000888	Insurance Fraud Investigator I	12 months
20000889	Insurance Fraud Investigator II	12 months
20000890	Insurance Fraud Investigator Supervisor	12 months
20000938	Forensic Firearms and Toolmark Examiner I	12 months
20000940	Forensic Chemist I	12 months
20000941	Forensic Chemist II	12 months
20000943	Forensic Biologist I	12 months
20000944	Forensic Biologist II	12 months
20000953	Forensic Computer Examiner I	12 months
20000954	Forensic Computer Examiner II	12 months
20000955	Forensic Computer Examiner III	12 months
20000963	Therapy Program Assistant	9 months
20000974	Audiologist I	12 months
20001001	Patient Aide I	9 months
20001021	Nursing Investigator	12 months
20001037	Medical Investigator I	12 months
20001038	Medical Investigator II	12 months
20001105	KSB/KSD Administrator III	12 months
20001107	KSB/KSD Administrator V	12 months
20001122	Disability Adjudicator I	12 months
20001125	Social Service Worker I	9 months
20001132	Field Services Supervisor	12 months
20001135	Juvenile Facility Superintendent I	12 months
20001136	Juvenile Facility Superintendent III	12 months
20001137	Facilities Regional Administrator	12 months
20001138	Youth Services Program Supervisor	12 months
20001139	Juvenile Facility Superintendent II	12 months
20001140	Family Services Office Supervisor	12 months
20001142	Human Rights Specialist	12 months
20001157	Administrative Hearing Officer I	12 months
20001159	Human Rights Enforcement Branch Manager	12 months
20001162	Human Rights Research/Information Compliance Supervisor	12 months
20001163	Human Rights Housing Compliance Supervisor	12 months
20001164	Human Rights Employment/Public Accommodations Compliance Supervisor	12 months

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20001165	Human Rights Compliance Enforcement Officer II	12 months
20001166	Probation and Parole Officer I	12 months
20001171	Youth Worker I	12 months
20001174	Youth Worker Supervisor	12 months
20001175	Juvenile Services District Supervisor	12 months
20001184	Service Region Administrator	12 months
20001185	Service Region Administrator Associate	12 months
20001186	Service Region Clinical Associate	12 months
20001788	Revenue Field Auditor I	12 months
20001807	Revenue Auditor I	12 months
20001841	Criminal Intelligence Analyst I	12 months
20001842	Criminal Intelligence Analyst II	12 months
20001876	Law Clerk	12 months
20001882	Public Advocate Investigator I	12 months
20001895	Environmental Administrative Hearing Officer	12 months
20001899	Mitigation Specialist I	12 months
20001904	Investigator I	12 months
21000900	Financial Institutions Examiner I	12 months
21000901	Financial Institutions Examiner II	12 months
21002025	Highway Technician Assistant I	12 months
21002026	Highway Technician Assistant II	12 months
21002027	Highway Technician I	12 months
21002028	Highway Technician II	12 months
21002029	Highway Technician III	12 months
21002030	Highway Technician IV	12 months
21002031	Highway Technician Superintendent I	12 months
21002032	Highway Technician Superintendent II	12 months
21002326	Apprentice I	12 months
21002327	Apprentice II	12 months
21002476	Boards and Commissions Support Specialized	12 months
21002825	Advanced Practice Registered Nurse Investigator	12 months

(3) If the length of the initial probationary period for a job classification is changed, an employee serving an initial probationary period on the effective date of the change shall serve the shorter of the initial probationary periods. If an employee is appointed, the employee's appointing authority shall advise the employee of the period of his initial probation.

Section 2. Promotional Probationary Period. (1) An employee who satisfactorily completes the promotional probationary period shall be granted status in the position to which he has been promoted. Unless an employee receives notice prior to the end of his promotional probationary period that he has failed to satisfactorily complete the promotional probationary period and that he is being reverted, the employee shall be deemed to have served satisfactorily and shall acquire status in the position to which he has been promoted.

(2) An employee who fails to satisfactorily complete a promotional probationary period shall be reverted to his former position or to a position in the same job classification as his former position. A written notification shall be sent to the employee to advise the employee of the effective date of reversion. A copy of the notice of reversion shall be forwarded to the Secretary of Personnel on the same date notice is delivered to the employee.

(3) Except as established in KRS 18A.111, the promotional probationary period shall be computed from the effective date of promotion to the corresponding date in the appropriate month following promotion as established in KRS 18A.005(27).

(4) The promotional probationary period shall be the same length as the initial probationary period for each job classification.

Section 3. Probationary Period Upon Reinstatement. (1) An employee who is reinstated to a position in the classified service no later than twelve (12) months after the beginning of a break in the classified service shall be reinstated with status. This shall include an employee ordered reinstated pursuant to KRS 18A.111(3), unless the board rules otherwise.

(2) An employee who is reinstated to the classified service more than twelve (12) months after a break in service, except an employee ordered reinstated pursuant to KRS 18A.111(3), shall serve an initial probationary period.

STAFFORD EASTERLING, General Counsel

APPROVED BY AGENCY: January 13, 2020

FILED WITH LRC: January 14, 2020 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2020, at 9:00 a.m. Eastern Time at the Kentucky Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m., March 31, 2020. Send written notification of intent to be heard at the public hearing or written comments to:

CONTACT PERSON: Stafford Easterling, General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email: stafford.easterling@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stafford Easterling

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation sets forth the classifications for which an initial probationary period in excess of six (6) months is required.

(b) The necessity of this administrative regulation: To establish the appropriate probationary periods for classifications throughout state government.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.0751(4)(e) requires the Personnel Board to promulgate an administrative regulation listing the job classifications for which an initial probationary period in excess of six (6) months is required. It also makes clear that a promotional probationary period shall mirror the initial promotional period for a particular job classification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth the classifications for which an initial probationary period in excess of six (6) months is required.

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

(a) How the amendment will change this existing administrative regulation: The proposed amendment would increase the initial probationary period for the Law Clerk, Law Enforcement Training Instructor I, Law Enforcement Training Instructor I-Telecommunications, Nursing Investigator, Advanced Practice Registered Nurse Investigator, HVAC Inspector I, and Boards and Commissions Support Specialist from six months to twelve months. The proposed amendment would reduce the initial probationary period for the Mitigation Specialist I and Public Advocate Investigator from 12 months to 6 months.

(b) The necessity of the amendment to this administrative regulation: The Secretary of the Personnel Cabinet, in consultation with the respective agencies, has recommended changes in the duration of the initial probationary period for the enumerated

classifications.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment consists of changes to the list of classifications for which an initial probationary period in excess of six (6) months is required. It also makes clear that a promotional probationary period shall mirror the initial promotional period for a particular job classification.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will amend the initial probationary period for certain enumerated classifications, which will assist in the recruitment and retention of qualified employees across state government.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All state employees appointed to the listed classifications and the state government agencies that employ them.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): An enhanced ability to recruit and retain qualified employees.

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

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 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: Not applicable.

(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 regulation must apply equally to all classified employees in all state agencies with classified employees.

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/Department of Public Advocacy; Justice and Public Safety Cabinet/Department of Criminal Justice Training; Justice and Public Safety Cabinet/Department of Kentucky State Police (who does not oppose the request); Board of Nursing; Public Protection Cabinet/Department of Building Housing Building and Construction, and Public Protection Cabinet/Board of Medical Licensure (who does not oppose the request).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.0751 and 18A.111

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

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

applicable

(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? Not applicable

(c) How much will it cost to administer this program for the first year? Not applicable

(d) How much will it cost to administer this program for subsequent years? Not applicable

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

Revenues (+/-): n/a

Expenditures (+/-): n/a

Other Explanation: It is not anticipated that this administrative regulation will have a fiscal impact.

EMERGENCY ADMINISTRATIVE REGULATIONS

GOVERNOR'S OFFICE
(New Emergency Administrative Regulation)

10 KAR 1:011E. Defense of employees.

EFFECTIVE April 22, 2020

RELATES TO: KRS 12.211, 12.212., 12.213, 12.215

STATUTORY AUTHORITY: KRS 12.213

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.213 requires the Governor, with the advice of the Attorney General, to adopt administrative regulations governing the methods of defense of employees or former employees of the Commonwealth.

Section 1. Definitions. When used in this administrative regulation:

(1) "Claim" means a claim whether or not a suit has been filed.

(2) "Civil action" means a civil suit filed in a state or federal court.

(3) "Defendant" means an employee or former employee of the Commonwealth who has been sued in a civil action in his or her official or individual capacity, or both, on account of an act or omission made in the scope and course of his or her employment as an employee of the Commonwealth and any of its agencies.

(4) "State agency" means any department, administrative body, division or program cabinet acting for the Commonwealth, but does not include local units of government such as school districts, counties, sewer districts or other municipalities.

(5) "Acts and omissions liability insurance" means insurance to cover the cost of defending civil actions covered under this Act and paying judgments or settlements resulting therefrom.

Section 2. Notice of Claim; Investigation. An employee or former employee against whom a claim is made which may result in a civil action against him or her on account of an act or omission made in the course of his or her employment by a state agency should immediately report said claim and the circumstances surrounding the claim to the Attorney General. The Attorney General, if he or she thinks it warranted, may cause an investigation of the claim to be made by a regular or special investigator of his or her office.

Section 3. Application for Defense; Response. (1) Any person desiring the Attorney General to provide for his or her defense under this Act shall make a written request to the Attorney General and shall submit with the request a copy of the summons, complaint and all other papers, documents and exhibits pertaining to the action.

(2) The Attorney General shall make a timely response to the court by filing an answer or motion for the defendant provided the application for defense is received by the Attorney General at least ten (10) days before a pleading is due. The filing of a pleading in the case shall not commit the Attorney General to continue the defense if the Attorney General has not reached a final decision and notified the defendant that his or her defense will be provided.

(3) Upon receiving an application for defense, the Attorney General, after such investigation and research as he or she deems necessary, taking into consideration those factors set out in KRS 12.212, shall decide and notify the defendant whether defense will be provided, and if so, by what method set out in Section 4 of this administrative regulation. The Attorney General shall not be responsible for the defense of a defendant unless written acceptance of the defense has been made by the Attorney General.

(4) In every case where the Attorney General has made a general delegation of his or her discretionary power to decide when to provide defense to other authority in state government, such authority shall make the decision and the application for defense provided by this section need not be made to the Attorney General, provided that in such cases the authority making the decision shall provide legal counsel for the defense. All settlements made in such cases shall, however, be approved by the Attorney General as provided by Section 6 of this administrative regulation.

Section 4. Methods of Defense. (1) Except where the

defendant is covered by insurance as provided in Section 5 of this administrative regulation, defense to a civil action may be provided in any of the following manners:

(a) The Attorney General may assign an assistant attorney general or a special assistant attorney general employed for that purpose to handle the case to conclusion by either settlement or final adjudication.

(b) The Governor or any department with the approval of the Governor may assign a regularly employed attorney under KRS 12.210 or an attorney employed under a personal service contract to handle the case as in paragraph (a) of this subsection.

(c) Any state agency may assign its employed counsel to handle the case.

(2) Regardless of the method of defense provided no settlement of litigation being defended under this administrative regulation shall be made without the approval of the Attorney General, except as provided in Section 6 of this administrative regulation.

(3) A defendant who has requested defense under this administrative regulation may elect to provide his or her defense by counsel employed by the defendant and in such case shall notify the counsel employed by the state of his or her election in writing.

Section 5. Insurance. (1) Any state agency or class of state agencies may be authorized by the Governor to purchase acts and omissions liability insurance for the protection of its employees and the benefit of the public.

(2) Any state agency which believes it is economically feasible to purchase acts or omissions liability insurance may request the Governor for authority to do so. The agency's request shall be documented with data as to the history of claims, probable cost of the insurance and any reasons it believes insurance is advisable for said agency.

(3) Any policy of acts and omissions liability insurance purchased by a state agency shall provide a maximum coverage of \$50,000 for each claim. Nothing in this administrative regulation shall be deemed to waive the sovereign immunity of the Commonwealth with respect to a claim covered by this administrative regulation or to authorize the payment of a judgment or settlement against a state employee in excess of the limit provided in any acts or omissions liability insurance purchased by a state agency.

(4) KRS 44.055 authorizes state agencies to purchase policies of insurance covering vehicles owned by the state. For this reason "defendant," as defined in Section 1(3) of this administrative regulation, does not include a person being sued for negligence in the operation of a state vehicle.

Section 6. Settlements. (1) Any counsel assigned by a state agency or the Attorney General may recommend to the Attorney General the settlement of a civil action against a defendant under this administrative regulation. If the Attorney General approves the settlement recommended he or she shall notify the Secretary of the Finance and Administration Cabinet by written memorandum and if the Secretary concurs in this recommendation the Secretary shall issue a voucher to the State Treasurer for payment of the settlement. No settlement shall be made or paid without the prior approval of the Attorney General.

(2) Guidelines for settlements. No settlement should be recommended unless the assigned counsel believes:

(a) The claim is legally valid,

(b) There is a strong probability of a judgment being rendered against the defendant,

(c) The settlement is a reasonable compromise in light of the nature of the claim.

(3) Defense counsel shall document the reasons for recommending a settlement in writing to the Attorney General and the documentation shall be a public record open to public inspection.

(4) This section shall not apply to any settlement reached by a defendant or his or her insurer which results in no cost to the Commonwealth.

Section 7. Cost of Administration. The Attorney General shall be reimbursed for the cost to his or her office for the administration

of KRS 12.211 to 12.215 upon vouchers submitted by the Attorney General and approved by the Secretary of the Finance and Administration Cabinet.

S. TRAVIS MAYO, Chief Deputy General Counsel
LA TASHA BUCKNER, Chief of Staff & General Counsel
APPROVED BY AGENCY: April 21, 2020
FILED WITH LRC: April 22, 2020 at 8 a.m.
CONTACT PERSON: S. Travis Mayo, Office of the Governor,
700 Capitol Avenue, Suite 106, Frankfort, Kentucky 40601; Phone:
502-564-2611; fax: 502-564-6858; travis.mayo@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: S. Travis Mayo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation continues the defense of employees or former employees of the Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to continue the defense of employees and former Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(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 continuing the defense of employees and former Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(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 continuing the defense of employees and former Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(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: The amendments to this administrative regulation are necessary to clarify Medicaid policy relating to copayments.

(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 government affected by this administrative regulation: Employees and former employees of the Commonwealth of Kentucky; the Governor's Office; the Office of the Attorney General; the Finance and Administration Cabinet.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. The entities identified will continue the defense of employees and former employees of the Commonwealth of Kentucky as they have under the prior regulation, 10 KAR 1:010, and providing payment to the Attorney General for the cost of administration of KRS 12.211 to 12.215 pursuant to the 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 Attorney General will be reimbursed for the cost of administering KRS 12.211 to 12.215 upon vouchers submitted by the Attorney general and approved by the Secretary of the Finance and Administration Cabinet.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Employees and former employees of the Commonwealth of Kentucky will benefit from being provided a legal defense in civil actions in which they have been sued for

alleged acts or omissions performed during the scope of their employment.

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

(a) Initially: The Governor's Office anticipates no additional costs as a result of this administrative regulation.

(b) On a continuing basis: The Governor's Office anticipates no additional costs as a result of this administrative regulation.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees, but continues fees prescribed by the prior administrative regulation.

(9) Tiering: Is tiering applied? Tiering is not applied.

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 Governor's Office, the Office of the Attorney General, and the Finance and Administration Cabinet will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. None. KRS 12.213 requires promulgation of the 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? The Governor's Office expects this administrative regulation to generate revenue for the Office of the Attorney General in the form of reimbursement of the cost in administering the 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? The Governor's Office expects this administrative regulation to generate revenue for the Office of the Attorney General in the form of reimbursement of the cost in administering the administrative regulation.

(c) How much will it cost to administer this program for the first year? The cost to administer the administrative regulation for the first year is unknown, but the administrative regulation provides for reimbursement of the cost of administering the administrative regulation to the Office of the Attorney General.

(d) How much will it cost to administer this program for subsequent years? The cost to administer the administrative regulation for the subsequent years is unknown, but the administrative regulation provides for reimbursement of the cost of administering the administrative regulation to the Office of the Attorney General.

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

Revenues (+/-): The Office of the Attorney is to be reimbursed the cost of administering the program.

Expenditures (+/-): The Office of the Attorney is to be reimbursed the cost of administering the program.

Other Explanation:

STATEMENT OF EMERGENCY
31 KAR 4:190E

This emergency administrative regulation is necessary given that the Kentucky Constitution requires free and fair elections, yet the COVID-19 pandemic has created a state of emergency in the Commonwealth and poses a risk to the health and well-being of voters. See, Governor's Executive Orders 2020-215 and 2020-296. This emergency regulation will allow the Commonwealth to conduct primary, special, and local option elections on June 23, 2020 in a manner that reduces the amount of exposure voters, poll workers, and administrators have to possible infection, thereby helping state and federal efforts to slow and stop the spread of the novel coronavirus. This emergency administrative regulation is promulgated pursuant to KRS 13A.190(a)(1) and (4), as well as to be consistent with the Voting Accessibility for the Elderly and Handicapped Act, 52 U.S.C. 20101 et seq. Pursuant to KRS 13A.190(1)(b)(1), this emergency regulation is temporary in nature and will expire as provided in this section. To take effect, it must be ratified by the Governor and Secretary of State through respective executive orders. This emergency administrative regulation will not be replaced by an ordinary administrative regulation.

ANDY BESHEAR, Governor
JARED DEARING, Director

STATE BOARD OF ELECTIONS
(New Emergency Administrative Regulation)

31 KAR 4:190E. Procedures for June 23, 2020 Elections.

EFFECTIVE: May 5, 2020

RELATES TO: KRS Chapters 39A and 117

STATUTORY AUTHORITY: KRS 39A.100(1)(l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39A.100(1)(l) requires the State Board of Elections to establish procedures for election officials to follow when the Governor has declared a state of emergency and the Secretary of State has recommended to the Governor, and the Governor has agreed, that a different time, place, or manner for holding elections is necessary. This emergency administrative regulation outlines the procedures to be undertaken to effectively conduct the June 23, 2020 elections. The following temporary emergency regulations relate to the procedures by which a lawful, registered Kentucky voter may cast a ballot for the elections to be held June 23, 2020.

Section 1. All provisions outlined in this emergency administrative regulation shall apply to the Commonwealth's June 23, 2020 elections only. Any existing administrative regulation promulgated by the State Board of Elections that conflicts with any provision herein is suspended in pertinent part as applied to the June 23, 2020 elections, including but not limited to the first two sentences of 31 KAR 4:160, section 7, subsection 4(c). Any existing statute that directly conflicts with Governor's Executive Order 2020-296, inclusive of the Secretary of State's recommendations as incorporated therein, is deemed suspended in pertinent part, by the authority of the General Assembly consistent with Section 15 of the Kentucky Constitution, as applied to the June 23, 2020 elections. However, no regulation or statute is or shall be deemed as suspended, in whole or in part, unless it directly conflicts with Governor's Executive Order 2020-296, the Secretary of State's recommendations as incorporated therein, or the provisions herein.

Section 2. Definitions. All terms used herein shall have the same definitions as currently stated in the Kentucky Revised Statutes and Kentucky Administrative Regulations. However, the term "medical emergency," established by but undefined in KRS 117.077, is defined to include a reasonable fear of infection or transmission during a state of public health emergency declared by the Governor.

Section 3. Notwithstanding KRS 117.077, an application for an absentee ballot due to medical emergency a) shall not require the

applicant to state that the emergency condition occurred within 14 days of the election, b) need not be notarized, and c) shall entitle the applicant, upon verification of the application, to vote by absentee, by mail or in person by appointment, as advised, if otherwise a lawful voter.

Section 4. The State Board of Elections shall send a non-forwarding postcard to every registered voter of the Commonwealth to inform them of the changes being made to the June 23, 2020 elections as a result of the COVID-19 pandemic, as well as the steps the voter must take to request an absentee ballot through the SBE secure online portal or by calling their County Clerk. The postcard shall advise voters that, if they will vote in-person absentee or in person on election day, they are advised to make an appointment with their County Clerk. The postcard shall have a return address of the State Board of Elections, and any postcard returned as undeliverable, or with a forwarding address, will be tracked and the process for list maintenance established in KRS 116.112 shall be followed. All UACOVA and overseas voting will take place as prescribed by federal law; these voters will receive a notification postcard.

Section 5. The State Board of Elections shall establish a secure online portal that will allow voters to request an absentee ballot through the submission of personally identifiable information. The information given by the voter on the portal shall serve as an absentee application in lieu of SBE's "Medical Emergency Application to Vote Absentee" form. The secure online portal shall transmit the request to the County Clerk of the county in which the requester is registered to vote. The County Clerk shall transmit to the voter an absentee ballot within seven (7) days, but no later than June 16, 2020. The County Clerk shall be responsible for determining if the request is valid. The State Board of Elections shall deliver to County Clerks a unique barcode for each voter's ballot envelope, providing the ability to track the ballot as it mailed out and received back, in order to certify the movement of the ballot through the postal system and to issue voter credit. Notwithstanding the availability of the secure online portal, a registered voter may request an absentee ballot using a traditional method of request.

Section 6. A voter shall request a mailed absentee ballot from the County Clerk of that voter's residence by 11:59 p.m. EST June 15, 2020. All mail-in absentee ballots shall have the return postage paid for by the State Board of Elections. Any voters who fail to do so, but desire to vote, shall be advised to contact their County Clerk in order to obtain an absentee ballot or to make an appointment to vote in-person absentee or in person on election day. Absentee ballots must be received by the County Clerk of the voter's county of registration no later than 6:00 p.m., local time, on June 23, 2020, in order to be counted, except that, absentee ballots delivered by the United States Postal Service and bearing a postmark of June 23, 2020 or an earlier date, shall be counted if received by 6:00 p.m., June 27, 2020.

Section 7. Any ballot containing the postponed election-day date of May 19, 2020 shall be deemed valid as to the June 23, 2020 elections. A voter may deliver an absentee ballot to the office of the County Clerk in the county where the voter is registered, rather than mailing the ballot via the United States Postal Service. To assist County Clerks in managing the flow of receipt of voter-delivered absentee ballots, the State Board of Elections may purchase secure drop-boxes and provide them to County Clerks based on request and availability. Each drop-box must be secured inside a main or satellite office of a County Clerk, or otherwise inside a county courthouse, and must at all times be visible by County Clerk staff. Each County Clerk utilizing one or more drop-boxes shall empty each drop-box at least once each business day of the County Clerk's Office, and secure the absentee ballots therein in a manner consistent with KRS 117.086(6); however, County Clerks shall empty drop-boxes more frequently than daily as needed so as to reasonably accommodate the volume of voter-delivered absentee ballots.

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Section 8. On or before June 1, 2020, each County Board of Elections shall appoint an absentee ballot processing committee with a minimum of four (4) members, all of whom must be registered voters of that county. Each committee shall have at minimum, one (1) registered Democrat and one (1) registered Republican. One political party shall not comprise a majority of a committee unless the role of the committee is assumed by the local County Board of Elections. Each County Board of Elections shall establish, and present to the State Board of Elections for approval, a process for observation of absentee ballot processing and counting, to be conducted in a manner consistent with Centers for Disease Control guidance. This absentee ballot processing committee may meet every day, subject to the needs and requirements of ballot processing, beginning as early as June 1, 2020, to review the absentee ballots cast in the county, but no person shall record or publicize any tallies or counts of these ballots until 6:00 p.m. local time, June 23, 2020. Once processed, absentee ballots must be stored in a manner consistent with current statutes and practices.

Section 9. No absentee ballot may be processed and counted unless and until the absentee ballot processing committee verifies the signature on the absentee ballot envelope to match the voter's signature of record. If a signature match cannot be made, the County Board of Elections, absentee ballot processing committee, or the County Clerk shall make a reasonable effort to contact the voter using the contact information provided by the voter's absentee ballot application, and provide the voter with a timeframe and manner in which the voter may cure the discrepancy. All signature cures must be made by 4:30 p.m., local time, June 29, 2020.

Section 10. All County Clerks shall make their offices and telephone lines available for the purpose of allowing registered voters of their respective counties to schedule appointments to vote absentee in-person by appointment beginning no later than June 8, 2020 and ending June 22, 2020, no fewer than 5 days per week in the two weeks before the week of election day. County Clerks shall make reasonable efforts to accommodate in-person appointments according to the needs and availability of both the requesting voter as well as the Clerk's office. Appointments shall be consistent with public health and social-distancing standards and every reasonable effort shall be undertaken by County Clerks to see that in-person absentee voting is implemented in a manner that limits direct contact between voters, other voters, and election officials, and shall be conducted throughout the Clerk's business hours. Once in-person absentee voting has concluded on June 22, 2020, the cumulative results shall be tabulated by the absentee ballot processing committee or County Board of Elections.

Section 11. Notwithstanding any statute or regulation to the contrary, County Clerks are directed to reduce the number of sites for in-person voting on June 23, 2020, with such reduction and such sites to be pre-approved by the State Board of Elections. All County Clerks shall make their offices and telephone lines available for the purpose of allowing registered voters of their respective counties to schedule appointments to vote on election day. County Clerks shall make reasonable efforts to accommodate in-person appointments according to the needs and availability of both the requesting voter as well as the Clerk's office. Appointments shall be consistent with public health and social-distancing standards and every reasonable effort shall be undertaken by County Clerks to see that in-person voting is implemented in a manner that limits direct contact between voters, other voters, and election officials, and shall be conducted from 6:00 a.m. to 6:00 p.m. local time as required by law.

Section 12. Notwithstanding the statutory deadline established by KRS 117.045(1), as tolled by Governor's Executive Order 2020-236, each County Board of Elections shall have until May 15, 2020, to appoint precinct election officials for each voting location.

Section 13. Notwithstanding KRS 117.045(4)-(5), County Clerks are permitted to utilize as poll workers voters who are

registered as independent.

Section 14. County Clerks are permitted to utilize poll workers in shifts of less than twelve (12) hours.

Section 15. No later than July 31, 2020, the State Board of Elections shall send via United States Postal Service, to every registered voter on its inactive voter list, written correspondence from the Secretary of State that prompts such inactive voter to confirm in writing to the State Board of Elections whether the inactive voter has moved out of Kentucky and is ineligible to vote in Kentucky. The mailed correspondence shall include for the inactive voter's benefit a return letter pre-addressed to the State Board of Elections which includes an affirmation of intent, to be attested to by the voter's signature, to be removed from the voter file. The State Board of Elections immediately remove from the voter file the registration of any voter who consents in writing to such removal.

Section 16. All vote totals must be transmitted via "Certification, Official Count and Record of Election Totals" SBE 49, 11/03 to the Secretary of State's Office no later than 6:00 p.m., local time, June 30, 2020.

Section 17. The process for any recanvassing of votes cast in a primary, special, or local option election held on June 23, 2020 shall be conducted pursuant to the method prescribed in KRS 117.305, except that the filing deadline shall be moved from 4:00 p.m. on the Tuesday following a primary election, to 4:00 p.m., local time, July 7, 2020.

Section 18. Should changes in conditions related to the COVID-19 pandemic require additional policies or procedures, the State Board of Elections may promulgate further administrative regulations after a public meeting of the Board, with contingent approval of both the Governor and the Secretary of State.

Section 19. Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "Certification, Official Count and Record of Election Totals" SBE 49, 11/03.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:40 p.m.

ANDY BESHEAR, Governor

JARED DEARING, Executive Director

APPROVED BY AGENCY: May 4, 2020

FILED WITH LRC: May 5, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this temporary emergency administrative regulation shall be held on July 31, 2020, at 10:00 a.m. EST, at the Office of the State Board of Elections. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing 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 July 31, 2020. 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: Taylor Brown, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Taylor Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency

administrative regulation outlines the procedures to be undertaken to effectively conduct the June 23, 2020 elections.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary given that the Kentucky Constitution requires free and fair elections, yet the COVID-19 pandemic has created a state of emergency in the Commonwealth and poses a risk to the health and well-being of voters.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 39A.100(1)(l) orders the State Board of Elections to establish procedures for election officials to follow when the Governor has declared a state of emergency and the Secretary of State has recommended to the Governor, and the Governor has agreed, that a different time, place, or manner for holding elections is necessary.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation fulfills the mandates of KRS 39A.100(1)(l) and will provide the necessary framework for the Commonwealth's June 23, 2020 given the ongoing state of emergency.

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

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

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

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

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

This is a new emergency administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This emergency administrative regulation will affect all registered voters in the Commonwealth, along with county fiscal courts, and governmental entities related to the administration of electoral processes.

(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: It is anticipated that any regulated entities impacted by this emergency administrative regulation will have to take no action fundamentally divergent from those actions already established for the administration of electoral processes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The State Board of Elections estimates that the implementation of this emergency administrative regulation will cost potentially between \$1,000,000 to 1,500,000 at the state government level. County-level should not exceed those already anticipated by election needs under ordinary circumstances. There are no costs to the individual voters to return a mail-in absentee ballot.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this new emergency administrative regulation will benefit the entirety of the Commonwealth in that it will allow for the conduction of elections that minimize the health-risk of all involved during the ongoing state of emergency related to the COVID-19 pandemic.

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

(a) Initially: The cost of the implementation of this emergency administrative regulation for the State Board of Elections will be minimal as most costs will be borne at the county level or subsidized pursuant to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.

(b) On a continuing basis: This will be a temporary emergency administrative regulation.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: A combination of federal, state, and local funds will be used in the implementation and enforcement of this emergency 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 State Board of Elections believes that the implementation of this emergency administrative regulation can be achieved without an increase in fees or funding by the General Assembly.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are associated with this emergency administrative regulation.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not used in this emergency administrative regulation as a desired result of the promulgation of this emergency administrative regulation is a uniform procedure for the administration of the June 23, 2020 elections throughout all of the counties in the Commonwealth.

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? At the state level, the State Board of Elections and the Secretary of State's Office will be impacted by this emergency administrative regulation. At the local level, office of all County Clerks and all local Boards of Elections will be impacted by this emergency administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Statutes and regulations either requiring or authorizing this emergency administrative regulation include: KRS 13A.190, KRS 13A.190, and 52 U.S.C. 20101 *et seq.*

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

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

(c) How much will it cost to administer this program for the first year? The State Board of Elections estimates that the implementation of this emergency administrative regulation will cost potentially between \$1,000,000 to 1,500,000 at the state-government level. County-level expenses should not exceed those already anticipated by election needs under ordinary circumstances. There are no costs to the individual voters to return a mail-in absentee ballot.

(d) How much will it cost to administer this program for subsequent years? This emergency administrative regulation is temporary and will not be in force following the administration of the June 23, 2020 elections.

STATEMENT OF EMERGENCY 787 KAR 1:350E

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, or welfare as a response to the Public Health Pandemic caused by COVID-19; as well as to prevent the loss of federal funds as provided under the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. No. 116-136)(Sections 2108 – 2111), which provides temporary financing agreements and grants for the implementation of a Short-Time Compensation Program (STC). This emergency

regulation interprets partial unemployment at KRS 341.080(3), and implements SB 150, Sec. 1(2)(a)(6) of the 2020 Regular Session of the General Assembly. This administrative regulation is being filed on an emergency basis in order to ensure the Workforce Development Cabinet, Department of Workforce Investment, Office of Unemployment Insurance (OUI) can implement a STC Program, and to help reduce mass layoffs as a result of the COVID-19 Pandemic. This emergency regulation will not be replaced with an ordinary regulation at its expiration, but will be withdrawn.

ANDY BESHEAR, Governor
JACQUELINE COLEMAN, Lt. Governor/Secretary

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Unemployment Insurance
(New Emergency Administrative Regulation)

787 KAR 1:350E, Short-time compensation.

EFFECTIVE: May 1, 2020

RELATES TO: KRS 341.080(3), KRS 341.115 (1), KRS 341.125(1) Executive Order 2020-235, 2020 Regular Session of the General Assembly Senate Bill 150 Sec. 1(2)(a)(6).

STATUTORY AUTHORITY: Senate Bill 150 of the 2020 Regular Session of the General Assembly, at SB 150, Sec. 1(2)(a)(6), KRS 341.080(3), Coronavirus Aid, Relief, and Economic Security Act (Pub. L. No. 116-136)(Sections 2108 – 2111).

NECESSITY, FUNCTION, AND CONFORMITY: This emergency administrative regulation interprets KRS 341.080(3) and expands partial unemployment compensation, by implementing a Short-Time Compensation (STC) Program. SB 150, Sec. 1(2)(a)(6) of the General Assembly's 2020 Regular Session permits employees who have not been terminated or separated from employment, but have experienced a reduction in work hours of more than 10 percent, but less than 60 percent, with no reduction in hourly rate, or the equivalent thereto, to be eligible for unemployment benefits to compensate the employee for the temporary loss of income. The STC program preserves employees' jobs and employers' trained workforces during disruptions to a firm's regular business activity.

Section 1. Definitions.

(1) "Affected unit" means a specified plant, department, shift, or other definable unit that includes two or more workers, part-time or full-time, to which an approved Short-Time Compensation plan applies.

(2) "Executive director" means the official of the Office of Unemployment Insurance designated to perform primary oversight of the unemployment insurance program, or any subordinate who is delegated responsibility for approving applications for participation in a Short-Time Compensation plan.

(3) "Health and retirement benefits" means employer-provided health benefits, and retirement benefits under a defined benefit plan as defined in section 414(j) of the Internal Revenue Code, or contributions under a defined contribution plan defined in section 414(i) of the Internal Revenue Code, which are incidents of employment in addition to the cash remuneration earned.

(4) "Layoffs" means affected employees who have their hours reduced to zero through a temporary or permanent separation from employment.

(5) "Participating employee" means an employee who works a reduced number of hours under an approved Short-Time Compensation plan.

(6) "Participating employer" means an employer who has an approved Short-Time Compensation plan in effect.

(7) "Plan Compliance Report" means a report filed quarterly by the employer to the executive director, or his designee, which explains all modifications made to the plan, identifies any deviations of the plan, and certifies ongoing compliance with the original proposal, and that the plan is still feasible.

(8) "Short-Time Compensation Application" means the written request, on a form designated by the Office of Unemployment

Insurance, submitted by the employer to be approved by the executive director and used to determine the reduction of work hours for the affected group.

(9) "Short-Time Compensation benefits" means the amount of benefits paid under the plan, the amount is calculated by using the regular weekly unemployment insurance amount for a week of total unemployment multiplied by the percentage of reduction in the individual's usual weekly hours of work.

(10) "Short-Time Compensation Plan" means a plan submitted by an employer and approved by the executive director or a designee, as complying with this regulation, under which the employer requests the payment of Short-Time Compensation benefits to workers in an affected unit of the employer to avert layoffs.

(11) "Substantial change of Short-Time Compensation plan" means any change that alters the entire "affected unit" or changes the percentage of the reduction of hours; or a change of circumstances since the plan was implemented, but does not mean minor changes such as removing employees from the affected unit if promoted, transferred or otherwise leave the company.

(12) "Usual weekly hours of work" means the usual hours of work for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed forty (40) hours and not including hours of overtime work.

(13) "Unemployment insurance" means the unemployment benefits payable under KRS 341.096, other than Short-Time Compensation, and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

Section 2. Application to Participate in the Short-Time Compensation Program.

(1) The executive director shall develop an application form to request approval of a Short-Time compensation plan and an approval process.

(2) An employer wishing to participate in the Short-Time Compensation program shall submit a signed written Short-Time Compensation application form to the executive director for approval. The Short-Term Compensation application shall include:

(a) The affected unit (or units) covered by the plan, including the number of full-time or part-time workers in such unit;

(b) The percentage of workers in the affected unit covered by the plan, the reduction of work hours scheduled shall be not less than ten (10) percent and not more than sixty (60) percent of the workers' full time or regular part-time schedule, as defined by 26 U.S.C 3306(v);

(c) Identification of each individual employee in the affected unit by name, Social Security number, and any other information required by the executive director to identify plan participants;

(d) Certification by the employer that it has:

1. Obtained the written approval of any applicable collective bargaining representative; and

2. Has notified all affected employees who are not in a collective bargaining unit of the proposed Short-Time Compensation plan.

(e) A description of how workers in the affected unit will be notified of the employee's participation in the Short-Time Compensation Plan; if no notice is intended prior to such application being approved, employer will provide an explanation of why notice to employees is not feasible;

(f) A description of how the employer will notify those workers in a collective bargaining unit as well as any workers in the affected unit who are not in a collective bargaining unit.

(g) Identification of the usual weekly hours of work for employees in the affected unit, and the specific percentage by which their hours will be reduced during all weeks covered by the plan.

(h) Identification of any week for which the employer regularly provides no work, due to a holiday or other plant closing.

(i) Certification by the employer that, if the employer provides health benefits and retirement benefits to participating employees, such benefits will continue to be provided to participating employees under the same terms and conditions as though the

usual weekly hours of work of such employee had not been reduced, or remain the same as other employees' benefits not participating in the Short-Time Compensation plan.

(j) Certification that under defined benefit retirement plans, the hours that are reduced under the Short-Time Compensation plan shall be credited for purposes of participation, vesting, and accrual of benefits as though the usual weekly hours of work had not been reduced, and any employer contributions to a defined benefit plan will remain equal to contributions made as though the weekly hours of work had not been reduced.

(k) Notwithstanding the above, an application may contain the required certification that when a planned reduction in health and retirement benefits is scheduled to occur during the duration of the plan; but any reduction will be applicable equally to employees who are not participating in the Short-Time Compensation program and to those employees who are participating.

(l) Certification by the employer that the aggregate reduction in work hours is in lieu of layoffs of regularly employed employees in the affected unit, whether temporary layoffs or permanent, or both.

(m) Include an estimate of the number of workers who would have been laid off in the absence of the Short-Time Compensation plan.

(n) Agreement by the employer to:

1. Furnish quarterly Plan Compliance Reports within fourteen (14) days of the end of the quarter. If the fourteenth day fall on a weekend or a holiday, the report will be due the following business day.

2. Furnish UI-3, Employer's Quarterly Unemployment Wage & Tax Report with the Plan Compliance Report, as directed in 787 KAR 1:220. If the fourteenth day falls on a weekend or a holiday, the report will be due the following business day.

3. Allow the executive director or an authorized representative access to all records necessary to approve or disapprove the plan application, and after approval of a plan, to monitor and evaluate the plan; and

4. Follow any other directives the executive director deems necessary for the agency to implement the plan and which are consistent with the requirements for plan applications.

(o) Certification by the employer that it has filed all quarterly reports and other reports required of them in KRS Chapter 341; and has paid all quarterly contributions, reimbursements in lieu of contributions, interest and penalties due through the date of the employer's application.

(p) Certification by the employer that it will not hire new employees in, or transfer employees to, the affected unit during the effective period of the Short-Time Compensation plan.

(q) Certification by the employer that it will not lay off participating employees during the effective period of the Short-Time Compensation plan, or reduce the hours of participating employees by more than the reduction percentage listed in the Short-Time Compensation application, during the effective period of the Short-Time Compensation plan, except in cases of holidays, designated vacation periods, equipment maintenance, or similar circumstances. But,

(r) Short-Time Compensation plan may also be terminated by the employer, as the program is entirely voluntary, as further defined in Section 4(3), should the Short-Time Compensation Plan no longer be feasible.

(s) Certification by the employer that participation in the Short-Time Compensation plan and its implementation is consistent with the employer's obligations under applicable federal and state employment and labor laws.

(t) The effective date and duration of the plan that shall expire not later than the end of the twenty-sixth (26) week after the effective date.

(u) Any other provision added to the application by the executive director that the United States Secretary of Labor determines to be appropriate for purposes of administering Short-Time Compensation Program.

(v) The Short-Time Compensation program shall not serve as a subsidy of seasonal employment during the off-season, nor as a subsidy of temporary part-time or intermittent employment.

Section 3. Approval and Disapproval of a Short-Time Compensation Plan.

(1) The executive director shall approve or disapprove a Short-Time Compensation plan and notify the employer of that decision within fifteen calendar days.

A decision disapproving the plan shall clearly identify the reasons for the disapproval.

(3) The disapproval shall be final, but the employer shall be allowed to submit another short-time compensation plan for approval not earlier than seven (7) calendar days from the date of the disapproval.

Section 4. Effective Date and Duration of the Short-Time Compensation Plan.

(1) A Short-Time Compensation plan shall be effective on the date that is mutually agreed upon by the employer and the executive director, which shall be specified in the notice of approval to the employer. The plan shall expire on the date specified in the notice of approval, which shall be either the date at the end of the sixth full calendar month, or 26th week after its effective date, or an earlier date mutually agreed upon by the employer and the executive director.

(2) If a Short-Time Compensation plan is revoked by the executive director under Section 5 of this administrative regulation, the plan shall terminate on the date specified in the executive director's written order of revocation.

(3) An employer may terminate a Short-Time Compensation plan at any time upon written notice to the executive director. Upon receipt of such notice from the employer, the executive director, or a designee, shall promptly notify each member of the affected unit of the termination date.

(4) An employer may submit a new application to participate in another Short-Time Compensation plan at any time after the expiration or termination date.

Section 5. Revocation of Approval.

(1) The executive director may revoke approval of a Short-Time Compensation plan for good cause at any time, including upon the written request of any of the affected unit's employees. Good cause shall include, but is not limited to:

(a) Failure to comply with the assurances given in the plan;

(b) Unreasonable revision of productivity standards for the affected units;

(c) Conduct or occurrences tending to defeat the intent and effective operation of the plan;

(d) Failure to furnish payments owed to OUI for benefits paid under the STC Plan, or any payments due pursuant to KRS 341.260, KRS 341.275, and KRS 341.277; or

(e) Violation of any criteria on which approval of the plan was based.

(2) The revocation order shall be in writing and shall specify the reasons for the revocation and the date the revocation is effective.

(3) The executive director, or a designee, may periodically review the operation of each employer's Short-Time Compensation Plan to ensure that no good cause exists for revocation of the approval of the plan.

Section 6. Modification of an Approved Short-Time Compensation Plan.

(1) An employer may request a modification of an approved plan by filing a written request to the executive director.

(2) The request shall identify the specific provisions proposed to be modified, and provide an explanation of the basis for the proposed modification is appropriate for the Short-Time Compensation plan.

(3) The executive director, or a designee, in their discretion shall approve or disapprove the proposed modification in writing within seven (7) calendar days of receipt and promptly communicate the decision to the employer.

(4) The executive director, in his or her discretion, may approve a request for modification of the plan based on conditions that have changed since the plan was approved, provided that the

modification is:

(a) Consistent with and supports the purposes for which the plan was initially approved; and

(b) Does not extend the expiration date of the original plan.

(5) An employer is not required to request approval of a plan modification from the executive director if the change is not a substantial change to the plan, but the employer must report every change to the plan to the executive director promptly and in writing.

(6) The executive director may terminate an employer's plan if the employer fails to meet this reporting requirement. If the executive director, or a designee, determines that the reported change is substantial, the executive director or a designee shall require the employer to request a modification to the plan.

Section 7. Eligibility for Short-Time Compensation Benefits.

(1) An individual shall qualify as a participating employee with respect to any week only if:

(a) The individual is monetarily eligible, for unemployment insurance;

(b) Not otherwise disqualified for unemployment insurance; and

(c) During the week, the individual is:

1. Employed as a member of an affected unit under an approved Short-Time Compensation plan, which was approved prior to that week; and

2. The plan is in effect with respect to the week for which Short-Time Compensation benefits are claimed.

(2) Notwithstanding any other provision of this regulation relating to availability for work and actively seeking work, the individual is available for the individual's usual hours of work with the Short-Time Compensation employer, which may include, for purposes of this section, participating in training to enhance job skills that is approved by the executive director such as employer-sponsored training or training funded under the Workforce Innovation and Opportunity Act of 2014 (Pub. L. 113-128).

(3) An individual covered by an approved Short-Time Compensation plan is deemed unemployed in any week during the duration of such plan if the individual's remuneration as an employee in an affected unit is reduced based a reduction of the individual's usual weekly hours of work under an approved Short-Time Compensation plan.

Section 8. Short-Time Compensation Benefits.

(1) A participating employee's Short-Time Compensation benefit amount shall be the product of the regular weekly unemployment insurance amount for a week of total unemployment multiplied by the percentage of reduction in the individual's usual weekly hours of work.

(2) An individual may be eligible for Short-Time Compensation benefits or unemployment insurance, as appropriate, except that no individual shall be eligible for combined benefits in any benefit year in an amount more than the maximum entitlement established for regular unemployment insurance.

(3) Short-Time Compensation Benefits shall not be paid in excess of twenty-six (26) times the amount of regular unemployment compensation, including dependent allowances, that an individual employee would earn under ordinary unemployment insurance benefits.

(4) The Short-Time Compensation benefits paid to an individual shall be deducted from the maximum entitlement amount of regular unemployment insurance established for that individual's benefit year.

(5) Provisions applicable to unemployment insurance claimants shall apply to participating employees to the extent that they are not inconsistent with the Short-Time Compensation presently applied at KRS 341.080(3). An individual who files an initial claim for Short-Time Compensation benefits shall receive a monetary determination.

(6) An individual who is eligible for Short-Time Compensation benefits shall not be subject to the provision of state unemployment insurance law relating to KRS 341.080(3).

(7) Wages earned from an employer other than the Short-Time Compensation employer during the week of Short-Time

Compensation eligibility shall be disregarded in the calculation of the individual's weekly Short-Time Compensation benefit.

(8) An individual who is not provided any work during a week by the participating employer, or any other employer, and who is otherwise eligible for unemployment insurance shall be eligible for the amount of regular unemployment insurance to which an individual would otherwise be eligible.

(9) An individual who is not provided any work by the Short-Time Compensation employer during a week, but who works for another employer and is otherwise eligible, may be paid unemployment insurance pursuant to KRS 341.080(3).

Section 9. Charging Short-Time Compensation Benefits.

(1) Except as provided in subsections (2) and (3) of this section, Short-Time Compensation benefits shall be charged to an employer's experience rating account in the same manner as unemployment insurance is charged under the charging provision of KRS 341.270.

(2) Employers liable for payments in lieu of contributions shall not have Short-Time Compensation attributed to service in their employ in the same manner as unemployment insurance is attributed under KRS 341.275, but instead the employer will pay the Office of Unemployment Insurance an amount equal to one-half the amount paid under such plan, within thirty days of the end of the quarter billing, issued by the Office of Unemployment.

(3) If the agency receives federal funding, for the purpose of partial or total reimbursement for the cost of funding Short-Time Compensation benefits paid by the agency pursuant to CARES Act (Pub. L. 116-136)(Section 2109 (b)(3)), or any other federal program implemented to offset these costs, those benefits or the portion of those benefits reimbursed shall not be charged or billed to a participating employer, or considered in formulating their experience rating.

Section 10. Penalties.

(1) Failure to timely file the UI-3, the Employer's Quarterly Unemployment Wage and Tax, shall result in a penalization pursuant to KRS 341.262.

(2) Any remedy available to the Office of Unemployment Insurance pursuant to KRS 341.265 may be utilized to enforce compliance with the reporting and payments owed to the agency.

(3) All remedies available to the executive director, or a designee, are available in the enforcement of this regulation.

Section 10. Severability Clause. If any provision of this emergency regulation would otherwise cause the United States Department of Labor to withhold the approval required to implement a Short-Time Compensation program under section 3304(a)(4)(e) of the Federal Unemployment Tax Act, 26 U.S.C. 3304, and section 303(a)(5) of the Social Security Act, 42 U.S.C. 503, that provision does not apply.

JACQUELINE COLEMAN, Lieutenant Governor

JOANNA DECKER, General Counsel and Executive Director

APPROVED BY AGENCY: April 30, 2020

FILED WITH LRC: May 1, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held Friday, July 24, 2020 at 10:00 a.m. (EDST) at the Education and Workforce Development Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this emergency administrative regulation, all state government offices are closed to in-person services. A public hearing will be held if state government offices are open to in-person services by July 24, 2020, the date of the hearing. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided at that time. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. In addition, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through Friday, July 31, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to:

CONTACT PERSON: Stefanie Ebbens Kingsley, Executive Director, Office of Unemployment Insurance, 500 Mero Street, Frankfort, Kentucky 40601, phone 502-782-5355, sebbenskingsley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stefanie Ebbens Kingsley

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation establishes standards, consistent with the public purpose of Executive Order 2020-235, CARES Act (Public Law No. 116-136)(Sections 2108-2111), Cabinet Order 2020-02, of March 25, 2020, and Senate Bill 150 of the 2020 Regular Session of the General Assembly, regarding the implementation of a Short-Time Compensation Program.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary to assist the Secretary and Deputy Secretary of the Cabinet for Education and Workforce Development, Executive Director of the Office of Unemployment Insurance in carrying out their duties set forth in Executive Order 2020-235, to establish and administer a Short-Time Compensation program for individuals who have experienced a loss of hours, and receive partial unemployment benefits based on that reduction of hours.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.080(3) allows for partial unemployment benefits, and SB 150 expands the category of individual workers that are eligible for partial unemployment benefits. This emergency administrative regulation conforms with the affected workers outlined in SB 150, and a program must be implemented to administer a program that allows employers to reduce their work-forces' hours by more than ten (10) percent, but less than sixty (60) percent. KRS 39A.180(1) authorizes the political subdivisions of the state and other agencies designated or appointed by the Governor to make, amend, and rescind orders and promulgate administrative regulations necessary for disaster and emergency response purposes and to supplement the carrying out the provisions of KRS 39A, if not inconsistent with any orders or administrative regulations promulgated by the Governor or by any state agency exercising a power delegated to it by the Governor.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation assists in the effective and efficient administration for implementing and processing these Short-Time Compensation Program applications.

(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 as this is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable as this is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable as this is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable as this is an emergency administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This emergency administrative regulation affects the Education and Workforce Development Cabinet, Department of Workforce Development, the Office of Unemployment Insurance, and all potential applicants, employers

and employees, seeking Short-Time Compensation programs to in all one-hundred twenty counties in the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: The Office of Unemployment Insurance will have to receive, adjudicate, and process Short-Time Compensation benefits for approved employer plans. Applicants will have to meet the eligibility and application requirements established by this emergency administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Any costs related to the implementation of a new process for Short-Time Compensation Programs, will be reimbursable from the U.S. Department of Labor. Grants are available for the implementation pursuant to CARES Act (Pub. L. No. 113-136)(Sec. 2108(a)(1)) and Sec. 2108(c)), from the USDOL for the administration of the program through December 26, 2020. The total costs cannot be estimated at this time, as it is unknown how many employers will utilize the plan, and all costs for implementation and administration should be reimbursable, for all payments made by the agency through December 2020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This emergency administrative regulation enables more employees to obtain partial unemployment benefits while still remaining employed, and the employer maintains its skilled workforce and retain these workers in an economic downturn.

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

(a) Initially: As the program is new, it is not possible to estimate how many employers will make use of this program, and thus no way to estimate what OUI's share of benefits paid will be. But, whatever amount is paid out through December 2020, the full amount will be reimbursed by USDOL.

(b) On a continuing basis: As the program is new, it is not possible to estimate what the costs for continued administration will be. But USDOL will reimburse OUI for all administrative start-up costs, and continuing costs will be determined by the number of employers who continue to use the program after December 31, 2020.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Temporary Financing agreements from the USDOL, grants and other financing options to fully reimburse OUI for any implementation costs submitted or attributed to this program, as well as one-half of all payments made through December 2020.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be funding provided by USDOL, and it is unknown if the OUI will require additional funding at this time for the continuation of this program after the USDOL funding ends in December 2020.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees impacted.

(9) TIERING: Is tiering applied? Tiering is not applied because all applicants will be subject to the application and eligibility requirements established by the emergency administrative regulation 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 for Workforce Development, and all employers experiencing the need to curtail costs by reducing a portion of their employee costs by utilizing the Short-Time Compensation program.

2. Identify each state or federal statute or federal regulation

that requires or authorizes the action taken by the administrative regulation. This emergency administrative regulation is authorized by KRS 39A.180, KRS 341.080(3), Executive Order 2020-235, and Senate Bill 150 of the 2020 General Assembly Regular Session, and the CARES Act (Pub. L. No. 116-136)(Sections 2108-2111).

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 emergency administrative regulation is not anticipated to generate additional revenues for the agency, just reimbursement from DOL for both implementation and administration, as well as benefits paid through December 26, 2020.

(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 emergency administrative regulation is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? The full program costs are unknown at this time, as it all depends on how many employers utilize the new program, but all implementation costs, will be reimbursed by DOL, as well as one-half of all payments made under the program through December 2020.

(d) How much will it cost to administer this program for subsequent years? It is impossible to predict what this program will cost for subsequent years as it is a new program, and all costs will depend upon the number of employers that chose to utilize this program to maintain their workforce while still cutting costs through Short-Time Compensation.

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

STATEMENT OF EMERGENCY 800 KAR 1:010E

Pursuant to KRS 12.270(2), KRS 13A.190(1), KRS 39A.180, Executive Order 2020-215, and Executive Order 2020-253, this emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, or welfare. On March 6, 2020, Governor Andy Beshear signed Executive Order 2020-215 declaring a State of Emergency regarding COVID-19. On March 23, 2020, Governor Andy Beshear signed Executive Order 2020-253 establishing the "Team Kentucky Fund," to be administered by the Secretary of the Public Protection Cabinet. This emergency regulation is being filed to establish the process for allocation of funds from the Team Kentucky Fund. This emergency regulation will be permitted to expire in accord with KRS 13A.190(3)(a). This will not be replaced by an ordinary regulation as it is being implemented in response to the COVID-19 pandemic, which is necessarily temporary in nature.

KERRY B. HARVEY, Secretary
ANDY BESHEAR, Governor

PUBLIC PROTECTION CABINET (New Emergency Administrative Regulation)

800 KAR 1:010E. Team Kentucky Fund.

EFFECTIVE: May 12, 2020

RELATES TO: KRS 39A.180, 12.270(2), EO 2020-215, EO 2020-253

STATUTORY AUTHORITY: KRS 39A.180, 12.270(2), EO 2020-253

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 2020-253 ("Order") requires the Public Protection Cabinet to establish the Team Kentucky Fund ("Fund") to be administered by the Secretary of the Public Protection Cabinet ("Secretary"). The Order commands that the Fund, consisting of monies received from public or private sources, shall be used to provide financial assistance to those who are severely financially impacted due to the COVID-19 emergency. The Order further requires the Secretary establish standards, consistent with the public purpose of the Order to provide assistance to Kentuckians whose employment is displaced consequent to the COVID-19 emergency, regarding acceptance and expenditure of funds based on eligibility and qualifications for assistance provided to an applicant. The standards shall include establishing eligibility criteria and a process for receiving, adjudicating, and paying requests for assistance from the Fund. KRS 39A.180(1) allows political subdivisions of the state and other agencies designated or appointed by the Governor to make, amend, and rescind orders and promulgate administrative regulations necessary for disaster and emergency response purposes. KRS 12.270(2) authorizes each cabinet secretary to accept and expend funds from any source, whether public or private, in support of the duties and responsibilities of the related cabinet.

Section 1. Fund Allocations. The Cabinet, in its sole discretion, may allocate funds in any percentage it deems prudent to the distribution method described in Sections 3-9 of this regulation, or to the distribution method described in Sections 10-11 of this regulation.

Section 2. Definitions.

(1) "Financial hardship" means at least a fifty (50) percent reduction in gross earned income or loss of employment.

(2) "Qualified Nonprofit Organization" means an organization, entity, or institution which serves Kentucky residents in the areas of the necessities of life, including providing assistance to Kentuckians experiencing housing insecurity or food insecurity.

Section 3. General Eligibility Requirements.

(1) To be eligible to receive supplemental financial assistance from the Team Kentucky Fund, an applicant shall:

(a) Reside in Kentucky;

(b) Have been employed on a full-time basis March 6, 2020. Full-time basis shall mean employment consisting of an average of at least thirty (30) hours per week;

(c) Have experienced financial hardship as a result of the COVID-19 emergency, during the state of emergency declared by Executive Order 2020-215; and

(d) Have a household income at or below 400 percent of the federal poverty guidelines prior to March 6, 2020.

Section 4. Financial Assistance. (1) An applicant meeting the requirements of Section 2 of this emergency administrative regulation may receive a financial award of up to \$1,000 which may be paid directly or by issuing one or more vouchers, contingent upon monies available in the Team Kentucky Fund and the submission of a complete application. Only one (1) applicant shall be eligible to receive an award per household.

(2) All applications are subject to the availability of funds.

(3) Vouchers may be in any amount not exceeding \$1,000, and the anticipated availability of funds and volume of applications may, but are not required to be considered in establishing the award amounts.

(4) No household shall receive a total financial award of more than one-thousand dollars (\$1,000) from the Fund.

(5) Vouchers may be issued to an Applicant for payment of certain expenses enumerated below incurred by the applicant for one (1) calendar month, with the total amount not to exceed \$1,000:

(a) Rent assistance: a voucher may be issued for the payment of rent. The voucher will be made directly payable to the applicant's landlord.

(b) Mortgage assistance: a voucher may be issued for payment of a mortgage. The voucher will be made directly payable to the

mortgage holder, including, if applicable, any escrowed tax or insurance obligations pursuant to the terms of the applicant's note and mortgage.

(c) Food/Grocery assistance: a voucher may be issued for groceries to be purchased. The voucher will be made directly payable to a grocer.

(d) Utility assistance: a voucher may be issued for the payment of utilities, including electricity, water, gas sewage, bottled gas used for home heating, and waste/trash.

Section 5. Incomplete Applications. An incomplete application shall be denied. However, an applicant is not prohibited from resubmitting an updated application provided that a prior application was denied solely on the basis of being incomplete.

Section 6. Administrative Review of Application Denial. (1) Within thirty (30) days of receipt of notice of denial, an applicant whose application was denied in whole or part for failure to meet the requirements of Section 2 or Section 4 of this administrative regulation may request a review of the denial by the Secretary of the Public Protection Cabinet. If the Secretary determines that the application should have been granted, a voucher in the amount so determined shall be awarded, subject to the availability of funds. There shall be no review if a request is not funded because funds are unavailable. If the Secretary determines that the application was appropriately denied, the applicant may appeal to the Franklin District Court.

Section 7. Use of Contractor to Evaluate Claims and Distribute Monies. (1) In order to fulfill the obligations imposed on the Cabinet by the Order, the Cabinet may enter into a Memorandum of Agreement with a contractor to assist in evaluating claims and distributing monies.

(2) The Memorandum of Agreement may establish terms, standards, and procedures governing the Fund consistent with the public purpose of the Order and with the terms of this emergency administrative regulation.

(3) The Memorandum of Agreement may establish terms, standards, and procedures applicable to all monies received by the Fund or a portion thereof.

(4) The contractor shall be subject to audit by the Commonwealth and any of its agencies or sub-agencies, and shall promptly and completely comply with any request for information regarding the Fund.

Section 8. Administrative fees. No administrative fees shall be paid from the Fund to any agency of the Commonwealth of Kentucky or any Contractor engaged to assist with the operation of the Fund.

Section 9. Applicability of Open Records and Document Retention. With the exception of information otherwise exempt from disclosure pursuant to the Kentucky Open Records Act, KRS 61.870, *et seq.* all documents and materials submitted to either the Commonwealth, the Cabinet, or any contractor shall be considered a public record subject to the Kentucky Open Records Act. Accordingly, the Commonwealth, the Cabinet, and any contractor shall retain all documents so described for a period of no less than two (2) years from the expiration or rescindment of Executive Order 2020-215 or the last distribution from the Fund, whichever occurs last.

Section 10. Other Acceptable Uses of Fund Monies. The Cabinet, in its sole discretion, may elect to allocate funds to qualified nonprofit organizations. A qualified nonprofit organization shall be permitted to receive funds if and only if:

(1) The qualified nonprofit organization has experienced a financial hardship due to the COVID-19 emergency during the state of emergency declared by Executive Order 2020-215; and

(2) The qualified nonprofit organization serves populations which have been severely financially impacted due to the COVID-19 emergency.

Section 11. Award of Funds. The Cabinet may award funds to qualified nonprofit organizations that have met the requirements of Section 10 in any amount it deems prudent. There shall be no right to appeal the award or denial of a financial award, as such awards are purely a matter of grace, by a qualified nonprofit entity.

Section 12. No Intent to Create Individual or Organizational Interests. The establishment of the Team Kentucky Fund is not intended to create and does not create any individual or organizational right, privilege, property interest, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the Commonwealth of Kentucky, its agents, departments, political divisions, or other entities, or any officers, employees, or agents thereof, or any other persons.

KERRY B. HARVEY, SECRETARY

APPROVED BY AGENCY: May 11, 2020

FILED WITH LRC: May 12, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulations shall be held at 9:00 AM on June 22, 2020. This hearing will be done by video teleconference. The primary location for the video teleconference will be at 500 Mero Street, Room 127. However, guidance provided by the Commonwealth of Kentucky Finance and Administration Cabinet, in light of the COVID-19 pandemic, requires all public agencies to take proper health precautions to mitigate the spread of COVID-19 and to use video teleconference software by which the general public may view the meeting, adequate public viewing space will not be available and a link will be provided on the Cabinet's Web site, www.ppc.ky.gov, by which members of the public will be able to view the video teleconference of the public hearing remotely. Members of the public wishing to attend may utilize the link provided on the Cabinet's Web site. 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. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the emergency 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 emergency administrative regulation. Written comments shall be accepted through 11:59 PM on June 30, 2020. 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: Jacob C. Walbourn, Deputy General Counsel, 500 Mero Street, 218 NC, Frankfort, Kentucky 40601, phone (502) 782-0719, fax (502) 546-3639, email jacob.walbourn@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jacob C. Walbourn, Deputy General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation establishes standards, consistent with the public purpose of Executive Order 2020-253, regarding expenditure of monies from the Team Kentucky Fund to qualified nonprofit organizations or based on eligibility and qualifications for individual financial assistance. This emergency administrative regulation also establishes the application process to receive individual financial assistance from the Team Kentucky Fund.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary to assist the Secretary of the Public Protection Cabinet in carrying out the duties set forth in Executive Order 2020-253, to establish and administer, in whole or in part, via the Cabinet or via a third party Contractor, the Team Kentucky Fund.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Executive Order 2020-253 requires the Secretary of the Public Protection Cabinet to establish standards

regarding acceptance and expenditure of funds based on eligibility and qualifications for assistance provided to an applicant or qualified nonprofit organization, including establishing eligibility criteria and a process for receiving, adjudicating, and paying requests for individual financial assistance from the Team Kentucky Fund. KRS 12.270(2) authorizes each cabinet secretary to accept and expend funds from any source, whether public or private, in support of the duties and responsibilities of the related cabinet. KRS 39A.180(1) authorizes the political subdivisions of the state and other agencies designated or appointed by the Governor to make, amend, and rescind orders and promulgate administrative regulations necessary for disaster and emergency response purposes and to supplement the carrying out the provisions of KRS Chapter 39A, if not inconsistent with any orders or administrative regulations promulgated by the Governor or by any state agency exercising a power delegated to it by the Governor.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation establishes standards regarding acceptance and expenditure of funds based on eligibility and qualifications for assistance provided to a qualified nonprofit organization or an applicant, including establishing eligibility criteria and a process for receiving, adjudicating, and paying requests for individual financial assistance from the Team Kentucky Fund, as required by Executive Order 2020-253 and KRS 12.270(2).

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

(a) How the amendment will change this existing administrative regulation: This is not applicable as this is an emergency administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is not applicable as this is an emergency administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not applicable as this is an emergency administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not applicable as this is an emergency administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This emergency administrative regulation affects the Public Protection cabinet and all potential applicants seeking to receive financial assistance from the Team Kentucky Fund, as well as qualified nonprofit organizations who may be provided distributions from the fund. This administrative regulation does provide for the option for the Public Protection Cabinet to enter into a Memorandum of Agreement with a Contractor to assist in evaluating claims and distributing monies from the Team Kentucky Fund.

(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 Public Protection Cabinet will, directly or through a third-party contractor, have to receive, adjudicate, and/or pay requests for assistance from the Team Kentucky Fund. Individual applicants and qualified nonprofit organizations will have to meet the eligibility and/or application requirements established by this emergency administrative regulation. A Contractor, if any, will have to carry out the terms of a Memorandum of Agreement that would require it to assist in evaluating claims and distributing monies from the Team Kentucky Fund.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Any costs to the Public Protection Cabinet will be met with existing Cabinet funds. There is no fee associated with an application to receive financial assistance from the Team Kentucky Fund. A Contractor, if any, is not permitted to retain administrative fees for its work in helping to evaluate claims and distribute monies

from the Team Kentucky Fund; the costs of administration by such Contractor would be minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This emergency administrative regulation enables the Public Protection Cabinet to grant financial assistance to eligible applicants and/or qualified nonprofit organizations through the Team Kentucky Fund. A Contractor, if any, is not be permitted to retain administrative fees for its work in helping to evaluate claims and distribute monies from the Team Kentucky Fund, but would likely receive intangible benefits including goodwill, publicity, and similar items.

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

(a) Initially: There are no anticipated additional initial costs to administer this emergency administrative regulation. Any costs to the Public Protection Cabinet will be met with existing Cabinet funds.

(b) On a continuing basis: There are no anticipated additional costs to administer this emergency administrative regulation on a continuing basis. Any costs to the Public Protection Cabinet will be met with existing Cabinet funds.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this emergency administrative regulation is not anticipated to result in additional costs to the Public Protection Cabinet. Any Cabinet costs resulting from this emergency administrative regulation will be met with existing Cabinet funds. Any awards granted to eligible applicants will come from the Team Kentucky Fund.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees directly or indirectly increased by this emergency administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied as neither qualified nonprofit organizations nor individual applicants will be disproportionately impacted by 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 Public Protection Cabinet, Office of the Secretary.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This emergency administrative regulation is authorized by KRS 39A.180, KRS 12.270(2), Executive Order 2020-253.

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 emergency administrative regulation is not anticipated to generate additional revenues for the agency.

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

(c) How much will it cost to administer this program for the first year? There are no anticipated additional initial costs to administer this emergency administrative regulation. Any costs to the Public Protection Cabinet will be met with existing Cabinet funds.

(d) How much will it cost to administer this program for subsequent years? This program is anticipated to be completed

within one (1) year. There are no anticipated additional initial costs to administer this emergency administrative regulation. Any costs to the Public Protection Cabinet will be met with existing Cabinet funds.

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

STATEMENT OF EMERGENCY 922 KAR 1:490E

This emergency administrative regulation is necessary in order to immediately waive the fingerprint-based criminal record check required for specific applicants in administrative regulation, as permitted by federal guidance issued pursuant to 42 U.S.C. 5141. In light of the public health emergency and declaration of national emergency caused by the outbreak of the Novel Coronavirus Disease (COVID-19), it has been deemed unsafe to conduct in-person fingerprint-based checks. Name-based criminal background checks shall be required at this time and fingerprint-based checks shall be conducted on these applicants once it is deemed safe to do so. This amendment is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1., 2., and 4., as requiring fingerprint-based criminal record checks is an imminent threat to public health, safety, and welfare during this pandemic; Kentucky is at risk of losing Title IV-E federal financial reimbursement of payments made for the provision of out of home care services to children who have been abused, neglected, or made dependent; and this amendment is necessary in order to protect human health. This emergency administrative regulation will not be replaced by an ordinary administrative regulation as this emergency is anticipated to be time-limited.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Acting Secretary

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

922 KAR 1:490E. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements.

EFFECTIVE: May 12, 2020

RELATES TO: KRS 17.500-17.580, 199.011(6), (9), 199.462(1), 211.684, 600.020(28), (40), (61), (62), 605.090(1)(b), (6), 605.120, 605.130, 620.050(5), Chapter 625, 45 C.F.R. 1356.30, 42 U.S.C. 247d, 671(a)(20), 5106a, 5141

STATUTORY AUTHORITY: KRS 194A.050(1), 199.462(4), 199.640(5), 605.120(5), (6), 605.130(4), 605.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law, 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 199.462(4) requires the cabinet to promulgate an administrative regulation for the purpose of requiring a criminal background investigation on behalf of a foster or adoptive parent applicant, an adult member of the applicant's household, a caretaker relative, and fictive kin. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including: (1) KRS 605.120(5) and (6) by which the cabinet is authorized to establish a program for kinship care; and (2) KRS 605.130(4) by which the cabinet shall perform such other services as may be deemed necessary for the protection of children. KRS 199.640(5) authorizes the cabinet to promulgate administrative

regulations establishing basic standards of care and service for child-placing agencies relating to the health and safety of all children in the care of the agency. This administrative regulation establishes background check requirements for caretaker relatives, kinship caregivers, fictive kin, or applicants seeking to provide foster or adoptive services. Additionally, this administrative regulation imposes a stricter requirement than the federal mandate because the cabinet requires the denial of an applicant if: (1) a criminal record check conducted on behalf of an adult household member reveals physical abuse, battery, or a drug or alcohol-related felony within the previous five (5) year period or a felony involving a spouse, a child, sexual violence, or death; or (2) a child abuse or neglect check conducted by the cabinet reveals that a household member, twelve (12) years of age or older, committed sexual abuse or sexual exploitation of a child, has been responsible for a child fatality related to abuse or neglect, or has had parental rights terminated involuntarily. Pursuant to 42 U.S.C. 5141, a federal agency charged with the administration of a federal assistance program may modify or waive an administrative condition because of a major disaster. The Secretary of Health and Human Services declared a public health emergency on January 31, 2020, pursuant to 42 U.S.C. 247d, and a national emergency was declared by the President of the United States on March 13, 2020, due to the Novel Coronavirus Disease (COVID-19) outbreak. The Children's Bureau identified the requirement of fingerprint-based checks of national crime information databases as an administrative condition that may be modified pursuant to federal authority given that a state conduct all available name-based criminal background checks for applicants during the emergency and conduct fingerprint-based checks as soon as it is safe to do so.

Section 1. Definitions. (1) "Address check" means a search of the Sex Offender Registry to determine if an address is a known address of a registered sex offender.

(2) "Administrative review" means that the status of the individual subject to the child abuse and neglect check is pending the outcome of an:

(a) Investigation or assessment in accordance with 922 KAR 1:330; or

(b) Appeal concerning a cabinet substantiated finding of child abuse or neglect.

(3) "Adolescent member of the household" means a youth who:

(a) Resides in the home of:

1. An individual who applies for approval or has been approved to provide foster or adoptive services; or

2. A caretaker relative, fictive kin, or kinship caregiver;

(b) Is age twelve (12) through age seventeen (17); and

(c) Is not placed in the home by a state agency.

(4) "Adult member of the household" means an adult who:

(a) Resides in the home of:

1. An individual who applies for approval or has been approved to provide foster or adoptive services; or

2. A caretaker relative, fictive kin, or kinship caregiver; and

(b) Is eighteen (18) years of age or older.

(5) "Applicant" means an individual who applies for approval as a foster or adoptive parent of a child in the custody of the state under:

(a) 922 KAR 1:350, Family Preparation; or

(b) 922 KAR 1:310, Standards for Child-Placing Agencies.

(6) "Caretaker relative" means a relative with whom the child is, or shall be, placed by the cabinet.

(7) "Child fatality" is defined by KRS 211.684.

(8) "Child-placing agency" is defined by KRS 199.011(6).

(9) "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).

(10) "Kinship caregiver" means the qualified caretaker relative of a child with whom the child is placed by the cabinet as an alternative to foster care in accordance with 922 KAR 1:130.

(11) "Near fatality" is defined by KRS 600.020(40) and 42 U.S.C. 5106a(b)(4)(A).

(12) "Sex Offender Registry" means the registration system for adults who have committed sex crimes or crimes against minors

established in accordance with KRS 17.500 through 17.580.

(13) "Sexual abuse" is defined by KRS 600.020(60).

(14) "Sexual exploitation" is defined by KRS 600.020(61).

Section 2. Background Checks Required for Foster or Adoptive Parent Applicants. (1) An applicant, and each adult member of the household, shall complete a DPP-157, Background Checks for Applicants or Foster/Adoptive Parents, and submit to:

(a) An in-state criminal records check, conducted pursuant to KRS 199.462(1), by the:

1. Kentucky Justice and Public Safety Cabinet; or

2. Administrative Office of the Courts;

(b) A child abuse or neglect check conducted by the cabinet for each state of residence during the past five (5) years;

(c) A criminal records check conducted by means of a fingerprint check of the Criminal History Record Information administered by the Federal Bureau of Investigation at the conclusion of the major disaster declaration once it has been deemed safe to do so by the Department of Health and Human Services, Administration on Children, Youth and Families; and

(d) An address check of the Sex Offender Registry.

(2) Prior to approval of an applicant, each adolescent member of the household shall complete a DPP-157 and submit to a child abuse or neglect check conducted by the cabinet.

(3) A Kentucky child abuse or neglect check conducted by the cabinet shall identify the name of each applicant, adolescent member of the household, or adult member of the household who has:

(a) Been found by the cabinet to have:

1. Committed sexual abuse or sexual exploitation of a child;

2. Been responsible for a child fatality or near fatality related to abuse or neglect;

3. Abused or neglected a child within the seven (7) year period immediately prior to the application; or

4. Had parental rights terminated; or

(b) A matter pending administrative review.

(4) An applicant shall not be approved if:

(a) A criminal records check reveals that the applicant, or adult member of the household, has a:

1. Felony conviction involving:

a. A spouse, a child, sexual violence, or death as described by 42 U.S.C. 671(a)(20); or

b. Physical abuse, battery, a drug, or alcohol within the five (5) year period prior to application;

2. Criminal conviction relating to child abuse or neglect; or

3. Civil judicial determination related to child abuse or neglect;

(b) A child abuse or neglect check reveals that the applicant, adolescent member of the household, or adult member of the household, has been found to have:

1. Committed sexual abuse or sexual exploitation of a child;

2. Been responsible for a child fatality or near fatality related to abuse or neglect; or

3. Had parental rights terminated involuntarily in accordance with KRS 625.050 through 625.120 or another state's laws; or

(c) An address check of the Sex Offender Registry and supporting documentation confirm that a sex offender resides at the applicant's home address.

(5) An individual identified in accordance with subsection (3) of this section may submit an open records request in accordance with 922 KAR 1:510.

Section 3. Procedure for Requesting a Cabinet Child Abuse or Neglect Check, a Criminal Record Check, and an Address Check of the Sex Offender Registry. Prior to approval of an applicant, a child-placing agency shall request a child abuse or neglect check, a criminal records check, and an address check of the Sex Offender Registry by submitting to the cabinet:

(1) A completed form, DPP-157, including the fee for a criminal background check; and

(2) Documentation required to request a child abuse or neglect check from the child welfare agency in each previous state of residence, if the applicant or adult household member has resided outside of the state of Kentucky in the previous five (5) years.

(3) To the extent resources are available, the department shall post information about other states' child abuse and neglect checks on the department's Web site.

Section 4. Request for a Child Abuse or Neglect Check from Another State.

(1) The cabinet shall conduct a child abuse or neglect check as required by 42 U.S.C. 671(a)(20) if a:

(a) Completed DPP-157 or DPP-159, Background Checks for Caretaker Relatives, Fictive Kin, or Kinship Caregivers, is submitted to the cabinet; or

(b) Request is received on agency letterhead and includes two (2) numeric identifiers.

(2) The cabinet shall:

(a) Protect the confidentiality of the information transmitted by the cabinet to a child welfare agency; and

(b) Waive the fee specified in 922 KAR 1:470.

Section 5. Background Checks Required for a Caretaker Relative and Fictive Kin.

(1) A caretaker relative, fictive kin, and each adult member of the household, shall complete a DPP-159 and submit to:

(a) An in-state criminal records check, conducted pursuant to KRS 199.462(1) by the:

1. Kentucky Justice and Public Safety Cabinet; or

2. Administrative Office of the Courts;

(b) A child abuse or neglect check conducted by the cabinet;

(c) An address check of the Sex Offender Registry; and

(d) A criminal records check conducted by means of a fingerprint check of the Criminal History Record Information administered by the Federal Bureau of Investigation if the caretaker relative, fictive kin, or adult household member has lived outside the state of Kentucky during the past five (5) years at the conclusion of the major disaster declaration once it has been deemed safe to do so by the Department of Health and Human Services, Administration on Children, Youth and Families.

(2) An adolescent member of a caretaker relative's or fictive kin's household shall complete a DPP-159 and submit to a child abuse or neglect check conducted by the cabinet.

(3) A child abuse and neglect check conducted by the cabinet in accordance with subsection (1)(b) or (2) of this section shall include any finding consistent with Section 2(3) of this administrative regulation.

(4) A caretaker relative or fictive kin shall not be approved if a criminal records check, a child abuse and neglect check, or an address check of the Sex Offender Registry reveals a finding consistent with Section 2(4) of this administrative regulation.

Section 6. Approval.

(1) Except for the provisions of Section 2(4) or 5(4) of this administrative regulation, approval of an applicant, fictive kin, or caretaker relative who has been convicted of a nonviolent felony or misdemeanor, has been found by the cabinet or another child welfare agency to have abused or neglected a child, or whose parental rights have been terminated voluntarily, shall be handled on a case-by-case basis with consideration given to the:

(a) Nature of the offense;

(b) Length of time that has elapsed since the event; and

(c) Applicant's life experiences during the ensuing period of time.

(2) Except for the provisions of Section 2(4) or 5(4) of this administrative regulation, an applicant, fictive kin, or caretaker relative may be approved on a case-by-case basis in accordance with the criteria described by subsection (1)(a) through (c) of this section if:

(a) An adolescent member of the household has:

1. Been found by the cabinet to have abused or neglected a child; or

2. Had parental rights terminated voluntarily in accordance with KRS 625.040 through 625.046 or another state's laws; or

(b) An adult member of the household has:

1. Been convicted of a nonviolent felony or misdemeanor;

2. Been found to have abused or neglected a child; or

3. Had parental rights terminated voluntarily in accordance with KRS 625.040 through 625.046 or another state's laws.

Section 7. Reevaluation.

(1) An approved foster or adoptive parent and each adult member of the household shall submit annually, prior to or during the anniversary month of initial approval, to:

(a) A criminal records check as described in Section 2(1)(a) of this administrative regulation;

(b) A child abuse or neglect check conducted by the cabinet; and

(c) An address check of the Sex Offender Registry.

(2)(a) If an adult becomes a new member of an approved foster or adoptive parent's household, the new adult member of the household shall submit to background checks within thirty (30) calendar days of residence within the household in accordance with Section 2(1)(a) through (d) of this administrative regulation.

(b) If an adult becomes a new member of a kinship caregiver's household, the new adult member of the household shall submit to background checks within thirty (30) calendar days of residence within the household in accordance with Section 5(1) of this administrative regulation.

(3) If an adolescent becomes a new member of an approved foster or adoptive parent or a kinship caregiver's household, the new adolescent member of the household shall submit to a child abuse and neglect check conducted by the cabinet within thirty (30) calendar days of residence within the household in accordance with Section 2(2) or 5(2) of this administrative regulation.

(4) If the cabinet has custody of a child placed with a caretaker relative or fictive kin:

(a) A new adult household member of a caretaker relative or fictive kin shall submit to background checks within thirty (30) calendar days of residence in the household in accordance with Section 5(1) of this administrative regulation; and

(b) A new adolescent household member of a caretaker relative or fictive kin shall submit to a child abuse and neglect check conducted by the cabinet within thirty (30) calendar days of residence within the household in accordance with Section 5(2) of this administrative regulation.

5) An annual address check of the Sex Offender Registry shall be completed for a kinship caregiver's eligibility redetermination in accordance with 922 KAR 1:130, Section 13(2).

(6) If an annual address check indicates a match with the Sex Offender Registry, a report of abuse, neglect, or dependency shall be made in accordance with 922 KAR 1:330.

Section 8. Maintenance of Records.

(1) A completed copy of each criminal records check conducted pursuant to Section 2 or 7 of this administrative regulation and the DPP-157 shall be maintained on behalf of each:

(a) Applicant;

(b) Foster or adoptive parent; and

(c) Adult member of an applicant or foster or adoptive parent's household.

(2) A completed copy of each DPP-157 submitted pursuant to Section 2(2) or 7(3) of this administrative regulation shall be maintained on behalf of each adolescent member of:

(a) An applicant's household; or

(b) A foster or adoptive parent's household.

(3) A completed copy of the DPP-159 and criminal records check conducted pursuant to Section 5 or 7 of this administrative regulation shall be maintained for each:

(a) Caretaker relative;

(b) Kinship caregiver;

(c) Fictive kin; and

(d) Adult member of a caretaker relative, fictive kin, or kinship caregiver's household.

(4) A completed copy of the DPP-159 submitted pursuant to Section 5(2) or 7(3) of this administrative regulation shall be maintained on behalf of each adolescent household member of a:

(a) Caretaker relative;

(b) Kinship caregiver; or

(c) Fictive kin.

Section 9. Communications. This administrative regulation shall not limit the cabinet's ability to discuss the qualifications or fitness of an applicant or an existing foster or adoptive parent with a child-placing agency in accordance with:

(1) KRS 620.050(5); or

(2) The terms and conditions of:

(a) A release of information signed by the applicant or foster or adoptive parent; or

(b) The agreement between the cabinet and the child-placing agency.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DPP-157, Background Checks for Applicants or Foster/Adoptive Parents", 1/18; and

(b) "DPP-159, Background Checks for Caretaker Relatives, Fictive Kin, or Kinship Caregivers", 1/18.

(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 C. FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: May 11, 2020

FILED WITH LRC: May 12, 2020 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall, if requested, be held July 27, 2020, 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 July 20, 2020, 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 July 31, 2020. 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: Donna Little, Deputy Executive Director, 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 and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes background check requirements for caretaker relatives, kinship caregivers, fictive kin, or applicants seeking to provide foster or adoptive services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements for background checks of out-of-home or foster care providers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes through its establishment of background check requirements for caretaker relatives, kinship caregivers, fictive kin, prospective foster or adoptive parents, and other household members.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of

the statutes through its establishment of background check requirements for out-of-home caregivers.

(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 emergency amendment to this administrative regulation reflects federal guidance that pursuant to 42 U.S.C. 5141, the Stafford Act, federal agencies administering federal assistance programs may modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster. The Secretary of Health and Human Services declared a public health emergency on January 31, 2020, pursuant to 42 U.S.C. 247d, and a national emergency was declared by the President of the United States on March 13, 2020, due to the Novel Coronavirus Disease (COVID-19) outbreak. The Children's Bureau identified the requirement of fingerprint-based checks of national crime information databases as an administrative condition that may be modified under the Stafford Act authority given that the state conducts all available name-based criminal background checks for applicants during the outbreak and conducts fingerprint-based checks as soon as it is safe to do so.

(b) The necessity of the amendment to this administrative regulation: The emergency amendment to this administrative regulation is necessary for consistency with federal guidance allowing a temporary waiver for required fingerprint-based background checks until it has been deemed safe to resume such checks by the Administration for Children, Youth and Families. Name-based checks are required to be conducted during this time.

(c) How the amendment conforms to the content of the authorizing statutes: The emergency amendment conforms to the content of the authorizing statutes through its alignment of regulatory provisions with statutory authorities, FBI requirements, requests of impacted private agencies, and additional considerations to improve child safety in out-of-home or foster care. The amendment provides for a waiver of the requirement of fingerprint-based background checks during the COVID-19 outbreak crisis.

(d) How the amendment will assist in the effective administration of the statutes: The emergency amendment will assist in the effective administration of the statutes through its necessary waiver conditions during the national emergency to ensure the state is in compliance with federal requirements and does not jeopardize federal financial reimbursement.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The emergency administrative regulation affects prospective and existing foster and adoptive parents, relative caregivers, kinship caregivers, and fictive kin providers seeking background check approval during the COVID-19 outbreak. In addition, child-placing agencies are impacted in their recruitment and approval of foster or adoptive parents by providing a conditional waiver of fingerprint-based background checks due to the national emergency.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no new actions on the part of caretaker relatives, kinship caregivers, or foster or adoptive parents. The amendment allows a temporary waiver of one requirement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Individuals subject to these background check requirements have their background check costs borne by the cabinet or through a child-placing agency in the course of the agency's business practices. There is no increase in costs resulting from this amendment.

(c) As a result of compliance, what benefits will accrue to the

entities identified in question (3): As a result of this amendment, children removed from their homes of origin will potentially have more placement options and enhanced safety afforded through the background checks required by this administrative regulation. In addition, the cabinet and private agencies will benefit from being able to continue approval processes and maintain compliance with federal funding mandates.

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

(a) Initially: There is no new or additional cost projected for the administrative body to implement this administrative regulation. Not amending this administrative regulation in this manner would result in jeopardizing the federal child welfare funding.

(b) On a continuing basis: There is no new or additional cost projected for the administrative body to implement this emergency amended administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal Title IV-E (of the Social Security Act), Temporary Assistance for Needy Families Block Grant funds, and State General Funds are the sources of funding 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 fees or funding necessary to implement this emergency amended 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 directly establish any fees, but requires criminal background checks for which other agencies have established fees. There is no increase in fees associated with this emergency amended administrative regulation.

(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. 45 C.F.R. 1356.30, 42 U.S.C. 671(a)(20), 5106a

2. State compliance standards. KRS 194A.050(1), 199.462(4), 199.640(5), 605.120(5), (6), 605.130(4), 605.150

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 1356.30, 42 U.S.C. 671(a)(20), 5106a

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment to the administrative regulation is consistent with federal requirements, as the Children's Bureau identified the requirement of fingerprint-based checks of national crime information databases as an administrative condition that may be modified during the state of emergency caused by the Novel Coronavirus Disease (COVID-19) pandemic. Pursuant to 42 U.S.C. 5141, a federal agency charged with the administration of a federal assistance program may modify or waive an administrative condition because of a major disaster. Name-based checks will continue to be conducted and fingerprint-based checks will resume at the conclusion of the major disaster declaration once it is deemed safe to do so.

Existing standards do impose stricter requirements than the federal mandate because the cabinet requires the denial of an applicant if: (1) a criminal record check conducted on behalf of an adult household member reveals physical abuse, battery, or a drug or alcohol-related felony within the previous five (5) year period or a felony involving a spouse, a child, sexual violence, or death; or (2) a child abuse or neglect check conducted by the cabinet reveals that a household member, twelve (12) years of age or older, committed sexual abuse or sexual exploitation of a child, has been responsible for a child fatality related to abuse or neglect, or has had parental rights terminated involuntarily. These standards are not affected by this amendment.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The additional restrictions noted in this analysis were added as additional safeguards for children in out-of-home care. The federal law does not prohibit the addition of these restrictions.

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, the Kentucky State Police, and the Administrative Office of the Courts 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), 199.462(4), 199.640(5), 605.120(5), (6), 605.130(4), 605.150, 45 C.F.R. 1356.30, 42 U.S.C. 671(a)(20), 5141

(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 emergency amendment will not generate revenue for state or local government. Fees charged by law enforcement or judicial agencies for criminal background checks cannot exceed the actual costs of conducting the checks.

(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 emergency amendment will not generate any revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no new or additional costs projected as a result of this amendment.

(d) How much will it cost to administer this program for subsequent years? There are no new or additional costs projected as a result of this amendment.

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board
(As Amended at ARRS, May 12, 2020)

16 KAR 5:020. Standards for admission to educator preparation.

RELATES TO: KRS 161.020, 161.028, 161.030, 161.048

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1)(b) requires that the Education Professional Standards Board (EPSB) promulgate administrative regulations setting standards for educator preparation programs. KRS 161.030(1) requires that the EPSB promulgate administrative regulations establishing requirements for issuance of a certificate authorized under KRS 161.010 to 161.126. This administrative regulation establishes the standards for admission to an educator preparation program that is required for certification.

Section 1. Selection and Admission to Educator Preparation Programs. (1) Each accredited provider of an approved program of educator preparation shall adhere to minimum standards for admission to its certification educator preparation programs, including those programs established pursuant to KRS 161.048, in accordance with this section.

(2) Admission to an approved undergraduate initial certification education preparation program, including those programs established pursuant to KRS 161.048(2), 161.048(3), 161.048(6), and 161.048(8), shall require the following:

(a) 1. A cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed, in accordance with the following:

a. Grade point average (GPA) shall be calculated by beginning with the most recent course completed and proceeding backward for two (2) semesters in the order the grades fall on the transcript to accumulate the last thirty (30) hours completed; and

b. If it is necessary to go back further than two (2) semesters, then the courses in the third semester included in the calculation shall be chosen based on the highest grades earned during that third semester; and

(b) Successful completion of the following pre-professional skills assessments of basic knowledge administered by the Educational Testing Service with the corresponding minimum score:

1. "Praxis Core Academic Skills for Educators (CASE): Reading (5713)" – 156 ["Praxis Core Academic Skills for Educators (CASE): Reading (5712)" – 156];

2. "Praxis Core Academic Skills for Educators (CASE): Writing (5723)" – 162 ["Praxis Core Academic Skills for Educators (CASE): Writing (5722)" – 162]; and

3. "Praxis Core Academic Skills for Educators (CASE): Mathematics (5733)" – 150 ["Praxis Core Academic Skills for Educators (CASE): Mathematics (5732)" – 150].

(3) Admission to an approved graduate level initial certification educator preparation program shall require the following:

(a) 1. A bachelor's degree or advanced degree awarded by a regionally accredited college or university with a cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework; and

(b) 1. Successful completion of the pre-professional skills assessments in subsection (2)(b) of this section; or

2. Successful completion of the Graduate Record Exam (GRE) administered by the Education Testing Service with the following

corresponding scores on the corresponding sections:

- a. Verbal reasoning – 150;
- b. Quantitative Reasoning - 143; and
- c. Analytical Writing - 4.0.

(4) Admission to an advanced certification educator preparation program shall require the following:

(a) 1. A statement of eligibility or an initial certificate earned by completion of an approved program through an approved educator preparation provider in Kentucky; or

2. For out-of-state applicants, a statement of eligibility or an initial certificate issued by EPSB and earned by completion of a program through an approved educator preparation provider; and

(b) 1. A cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework; and

(c) 1. Completion of requirements for the administrative certificate as established in [Title] 16 KAR, Chapter 3; or

2. Completion of requirements for the certificate as established in 16 KAR 2:060, 16 KAR 2:070, and 16 KAR 2:090.

(5) Each accredited provider of an approved program of educator preparation shall have a formal application procedure for admission that shall include the following:

(a) Documentation that the applicant demonstrates the following:

1. Critical thinking;
2. Communication;
3. Creativity; and
4. Collaboration;

(b) Evidence that the applicant has reviewed the Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020; and

(c) A method to allow the applicant to demonstrate that the applicant understands professional dispositions expected of professional educators.

(6) The educator preparation program shall not enroll undergraduate students in any educator preparation program courses restricted to admitted candidates.

(7) The educator preparation provider shall maintain electronic records that document that all students meet the requirements established in this section.

Section 2. Selection and Admission to an Approved Educator Preparation Program for Occupation-Based Career and Technical Education. (1) Admission to an approved program of preparation for occupation-based career and technical education that results in certification pursuant to 16 KAR 2:020 shall require:

(a) A minimum of a high school diploma or equivalency exam;

(b) Four (4) years of successful and appropriate occupational experience in the area to be taught, which shall include:

1. At least two (2) years of occupational experience completed within the last five (5) years. A maximum of one (1) year of the required work experience may be satisfied by completion of an approved program of preparation for the occupation to be taught; and

2. The occupational experience confirmed by the Kentucky Department of Education, Office of Career and Technical Education;

(c) The assessment provisions established in 16 KAR 6:020; and

(d) An offer of employment from a state or local technology center, or a school district.

(2) Each provider of an approved occupation-based educator preparation program shall have a formal application procedure for admission that shall include the following:

(a) Evidence that the applicant has reviewed the Professional

Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020; and

(b) A method to allow the applicant to demonstrate that the applicant understands professional dispositions expected of professional educators.

(3) The educator preparation provider shall not enroll undergraduate students in any educator preparation program courses restricted to admitted candidates.

(4) The educator preparation provider shall maintain electronic records that document that all students meet the requirements established in this section.

(5) A provider of approved educator preparation programs shall provide notice to the EPSB of which candidates it has admitted to an approved program of educator preparation within six (6) months of the candidate's admission.

(6) Failure of an approved educator preparation provider to provide EPSB with notice of each candidate it admitted to an approved program of preparation in accordance with this section may result in action against the provider's accreditation status.

Section 3. Assessment Recency. A passing score on an assessment established at the time of admission shall be valid for the purpose of applying for admission for five (5) years from the assessment administration date.

Section 4. Annual Report. (1) Each educator preparation provider shall submit an electronic report annually to the EPSB that includes the following program data on each candidate admitted to educator preparation programs:

- (a) EPSB Person Identifier;
- (b) Student School Identification number;
- (c) Social Security number;
- (d) Full name;
- (e) Birth date;
- (f) Reported ethnicity;
- (g) Reported gender;
- (h) Email address;
- (i) Present home mailing address;
- (j) Permanent home mailing address;
- (k) Phone number;
- (l) Admission date;
- (m) Total number of credit hours prior to admission to the provider's educator preparation program;
- (n) Total number of credit hours in educator preparation courses completed prior to admission to the provider's educator preparation program;
- (o) Grade point average at admission;
- (p) Current program enrollment status;
- (q) Program completion date;
- (r) Grade point average at program completion;
- (s) Academic major at program completion; and
- (t) Academic minor or minors at program completion, if applicable.

(2) The report shall be submitted in the following manner:

(a) The provider shall electronically submit all data identified in subsection (1) to the EPSB; and

(b) By September 15 of each year, each institution shall provide written confirmation by electronic mail to the EPSB that all required information has been entered.

(3) The preparation program shall exit any candidate who has not been enrolled in at least one (1) course required for program completion within the last twelve (12) months.

(4) Failure to submit the annual report in accordance with this section may result in action against the program's accreditation status.

CONTACT PERSON: Todd Allen, Interim 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.

BOARDS AND COMMISSIONS
Kentucky Board of Pharmacy
(As Amended at ARRS, May 12, 2020)

201 KAR 2:095. Pharmacist interns.~~[Dispensing responsibilities.]~~

RELATES TO: KRS 315.010~~(12), (18), (27)~~~~[(19), (25)]~~, 315.020, 315.050

STATUTORY AUTHORITY: KRS 315.020(4), 315.191(1)(a) NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes~~[requires]~~ the board to promulgate administrative regulations necessary to regulate and control all matters set forth in KRS Chapter 315 relating to the practice of pharmacists and pharmacist interns. This administrative regulation establishes the professional responsibilities of a pharmacist and a pharmacist intern under supervision.

Section 1. A pharmacist intern, under the supervision and direction of a licensed pharmacist, shall practice pharmacy pursuant to KRS 315.010(22) with the exception that prior to dispensing, a pharmacist shall verify the accuracy and appropriateness to include drug utilization review (DUR) and final product verification of the prescription or product dispensed.~~[A[Pursuant to KRS 315.020(4), a] pharmacist intern may[shall perform professional acts within the] practice[of] pharmacy under the[immediate] supervision and direction of a licensed[registered] pharmacist.]~~

Section 2. A pharmacist shall be responsible for all the actions of a pharmacist intern.~~[intern who has successfully completed his first professional year coursework of a Bachelor's of Science in Pharmacy or Doctor of Pharmacy degree program at an accredited school or college of pharmacy may, at the discretion of the supervising pharmacist, engage in delegated acts of professional practice pursuant to supervision as defined by KRS 315.010(25).]~~

Section 3. A pharmacist shall be responsible for all the actions of the pharmacist intern.]

CONTACT PERSON: Larry Hadley, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Larry.Hadley@ky.gov.

BOARDS AND COMMISSIONS
Kentucky Board of Medical Licensure
(As Amended at ARRS, May 12, 2020)

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

RELATES TO: KRS 311.530-311.620, 311.990

STATUTORY AUTHORITY: KRS 311.565(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(a) authorizes the board to promulgate administrative regulations to regulate the conduct of its licensees. This administrative regulation establishes the professional standards for physicians practicing in Kentucky who prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Section 1. Minimum Qualifications for Prescribing or Dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. Except as provided in Section 3 of this administrative regulation, a licensed physician shall not prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone unless that physician possesses the minimum qualifications established in this section.

(1) The physician shall obtain and maintain in good standing a

waiver and license as issued by the Drug Enforcement Administration (DEA) to prescribe Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for the treatment of opioid use disorder[dependence] in the Commonwealth of Kentucky.

(2) The physician shall successfully complete the approved educational programs required by this subsection.

(a) The prescribing physician shall be a DEA-licensed prescriber of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone and shall have obtained Buprenorphine certification through completion of a Substance Abuse and Mental Health Services Administration ("SAMHSA") certified course.

(b) For each three (3) year continuing education cycle, each DEA-licensed prescriber of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall complete at least twelve (12) hours of continuing medical education certified in Category I specific to addiction medicine as part of the required continuing medical education hours set forth in 201 KAR 9:310.

(3) The physician shall enroll in the Kentucky Health Information Exchange to the extent necessary to query and pull information from the Kentucky Health Information Exchange. The physician shall not report the prescribing or dispensing of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for medically-supervised withdrawal or as maintenance treatment for a patient diagnosed with opioid use disorder[dependence] into the Kentucky Health Information Exchange unless otherwise required by law.

Section 2. Professional Standards for Prescribing or Dispensing [transmucosal] Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for Medically-Supervised Withdrawal or the Treatment of Opioid Use Disorder[Dependence].

(1)(a) Except as provided in paragraph[paragraphs] (b) and (c)] of this subsection, transmucosal Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall only be prescribed or dispensed for medically-supervised withdrawal or as a maintenance treatment for a patient diagnosed with opioid use disorder[dependence].

(b) Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall not be used for the treatment of pain or any other condition, unless delivered in a Federal Drug Administration (FDA) approved form and for an FDA approved purpose[Transdermal delivery and buccal film delivery of Buprenorphine-Mono-Product may be used for treatment of pain in patients with pain severe enough to require daily, around-the-clock, long-term opioid treatment and for whom alternative treatment options are ineffective, not tolerated, or would be otherwise inadequate to provide sufficient management of pain. Transdermal delivery and buccal film delivery of Buprenorphine-Mono-Product shall not be prescribed or dispensed as an as-needed (prn) analgesic.

(c) Intravenous and intramuscular delivery of Buprenorphine-Mono-Product may be administered in a physician's office or other healthcare facility for treatment of acute pain severe enough to require an opioid analgesic and for which alternate treatments have not been tolerated or are expected not to be tolerated, or have not provided adequate analgesia or are not expected to provide adequate analgesia].

(2) Buprenorphine-Mono-Product shall not be prescribed or dispensed for medically-supervised withdrawal or as a maintenance treatment for a patient diagnosed with opioid use disorder[dependence], except:

(a) To a pregnant patient;

(b) To a patient with demonstrated hypersensitivity to naloxone; [or]

(c) As [an implant-delivered or injectable treatment] administered under supervision in a physician's office or other healthcare facility, including hospitals, urgent care settings, surgical care centers, residential treatment facilities, and correctional facilities; or

(d) To a patient transitioning from methadone to buprenorphine, limited to a period of no longer than one week.

(3)(a) Except as provided in paragraph (b) of this section,

Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall not be prescribed or dispensed to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants or other opioids, without consultation of a physician who is certified by the American Board of Addiction Medicine, the American Board of Preventive Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry.

(b) A physician may prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants, or other opioids, without consultation in order to address an extraordinary and acute medical need not to exceed a combined period of thirty (30) days.

(4) Except as provided in Section 3 of this administrative regulation, each licensed physician who prescribes or dispenses Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for medically-supervised withdrawal or for the treatment of opioid use disorder[dependence] shall fully comply with the professional standards established in this subsection.

(a) Prior to or at least within two (2) weeks of initiating treatment, the prescribing or dispensing physician shall:

1. Obtain and record a complete and appropriate evaluation of the patient which shall at a minimum include:

- The patient's history of present illness;
- The patient's history of substance use;
- The patient's social and family history;
- The patient's past medical and psychiatric histories;
- A focused physical examination of the patient;
- [The patient's injection use history, which shall include] Screening for HIV and hepatitis serology; and
- Arranging appropriate laboratory tests, which shall include a CBC, a drug screen, and a CMP;

2. Obtain the patient's consent and authorizations in order to obtain the patient's prior medical records.

a. Upon receipt of the medical records, the prescribing or dispensing physician shall review and incorporate the information from the records into the evaluation and treatment of the patient.

b. If the prescribing or dispensing physician is unable, despite best efforts, to obtain the patient's prior medical records, the physician shall document those efforts in the patient's chart;

3. Obtain and review a KASPER report for that patient for the twelve (12) month period immediately preceding the initial patient encounter and appropriately utilize that information in the evaluation and treatment of the patient;

4. Explain treatment alternatives and the risks and the benefits of treatment with Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone to the patient;

5. Obtain written informed consent from the patient in a manner that meets professional standards; and

6. If the patient is a female of child-bearing age and ability, meet the requirements of paragraph (b) of this subsection.

(b) Except as provided in Section 3 of this administrative regulation, the requirements of this paragraph shall apply to the treatment of a female of child-bearing age and ability.

1. Prior to initiating treatment, the physician shall require that the patient [first] submit to a pregnancy test and, if pregnant, the physician shall provide counseling as to the risk of neonatal abstinence syndrome which shall be consistent with current SAMHSA guidance[patient education material on neonatal abstinence syndrome from the American Congress of Obstetricians and Gynecologists, American Academy of Pediatrics, American Society of Addiction Medicine (ASAM) and the Kentucky Department for Public Health, and offer means to prevent pregnancy].

2.a. A physician who prescribes or dispenses[shall not prescribe or dispense] Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone to a patient who is pregnant or breastfeeding shall first obtain and document[unless the prescribing physician first obtains and documents] consultation with another independent physician that[for an opinion as to whether] the potential benefit of Buprenorphine-Mono-Product or

Buprenorphine-Combined-with-Naloxone use outweighs the potential risk of use.

b. The consultation shall be obtained from a physician who is certified by the American Board of Addiction Medicine, the American Board of Preventive Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry or from an obstetrician or maternal-fetal medicine specialist ~~[who is also qualified to prescribe buprenorphine]~~.

(c) Except as provided by paragraph (d) of this subsection, while initiating treatment with Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone, the prescribing or dispensing physician shall comply with the requirements of this paragraph.

1. The prescribing or dispensing physician shall recommend to the patient an in-office observed induction protocol.

a. Except as provided in clause b. of this subparagraph, the prescribing or dispensing physician shall supervise~~[conduct]~~ the in-office observed induction protocol.

b. If an in-office observed induction does not occur, the prescribing or dispensing physician shall appropriately record the circumstances in the patient chart ~~[and shall implement a SAMHSA-recognized or ASAM-recognized home-based induction protocol]~~.

2. The prescribing or dispensing physician shall document the presence of opioid withdrawal before the first dose is given by using a standardized instrument, such as the clinic opioid withdrawal scale (COWS) or other similarly recognized instrument.

3. The prescribing or dispensing physician shall initiate treatment with a dose not to exceed the dose equivalency of four (4) milligrams buprenorphine generic tablet, which:

a. May be followed by subsequent doses if withdrawal persists ~~[and is not improving]~~; and

b. Shall not exceed the dose equivalency of sixteen (16) milligrams buprenorphine generic tablet on the first day of treatment.

(d) If the patient is transferred from another treatment provider and has previously experienced withdrawal without a relapse and has not had a lapse in treatment, the prescribing or dispensing physician shall:

1. Document that fact;

2. Educate the patient about the potential for precipitated withdrawal; and

3. Continue maintenance treatment of the patient on the same or less dosage as established by the previous treatment provider and then as provided in paragraph (e) of this subsection.

(e) After initial induction of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone, the prescribing or dispensing physician shall meet the requirements established in this paragraph.

1. If the physician prescribes or dispenses Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone medication, the physician shall implement a treatment plan that requires objective behavioral modification by the patient. The behavioral modification shall include the patient's participation in a behavioral modification program that may include counseling or a twelve (12) step facilitation.

2. The physician shall prescribe or dispense to the patient an amount of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone that:

a. Is necessary to minimize craving and opiate withdrawal;

b. Does not produce opiate sedation;

c. Except as provided in subclauses (i) through (iv) [and (ii)] of this clause, is to be taken no more frequently than once daily;

(i) If the patient is pregnant, is to be taken no more than twice daily; [or]

(ii) If the patient is receiving a daily dosage of less than 16mg, is to be taken no more than twice daily;

(iii) If the patient is simultaneously engaged in cancer treatment, hospice or palliative care, is to be taken bid or tid; or [and]

(iv) If the patient is undergoing a major surgery, being any

operative or invasive procedure or delivery, or has suffered a significant physical trauma, being any acute, blunt, blast or penetrating bodily injury that has a risk of death, physical disability or impairment, is to be taken bid or tid for up to fourteen (14) days; and [.]

d. Is able only to supply the patient until the next physician visit, which shall be scheduled as required by subparagraph 3. of this paragraph.

3.a. The prescribing or dispensing physician shall ensure that the patient is seen ~~[by the physician]~~:

(i) No later than ten (10) days after induction and then at intervals of no more than ten (10) days for the first month after induction; and

(ii) At intervals of no more than fourteen (14) days for the second month after induction.

b.(i) If the patient demonstrates objective signs of positive treatment progress, the prescribing or dispensing physician shall ensure that the patient is seen at least once monthly thereafter.

(ii) If two (2) years after initiation of treatment, the patient is being prescribed Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for opioid use disorder~~[dependence]~~ and the patient has demonstrated objective signs of positive treatment progress, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives for at least two (2) years, then the prescribing or dispensing physician may require that the patient be seen only by the prescribing or dispensing physician at least once every three (3) months.

(iii) The prescribing or dispensing physician shall see the patient in shorter intervals if the patient demonstrates any noncompliance with the treatment plan.

c. If extenuating circumstances arise that require a patient to unexpectedly reschedule a physician visit, the prescribing or dispensing physician shall make best efforts to see the patient as soon as possible and document the circumstances in the patient chart.

4. At least every three (3) months after initiation of treatment, the prescribing or dispensing physician shall evaluate the patient to determine whether the patient's dosage should be continued or modified and shall appropriately document that evaluation and clinical reasoning in the patient's chart.

5. At least once every three (3) months, the prescribing or dispensing physician shall obtain KASPER reports to help guide the treatment plan.

a. If the KASPER indicates any abnormal findings, the prescribing or dispensing physician shall incorporate those findings into appropriate clinical reasoning to support the continuation or modification of treatment and shall accurately document the same in the patient record.

b. Appropriate clinical reasoning may include adjustment of dose strength, adjustment of ~~[or]~~ frequency of visits, increased drug screening, a consultation with a specialist, or an alternative treatment.

c. Every twelve (12) months following initiation of treatment, if a patient's prescribed daily therapeutic dosage exceeds the dose equivalency of sixteen (16) milligrams buprenorphine generic tablet per day and the prescribing or dispensing physician is not certified by the American Board of Addiction Medicine, the American Board of Preventive Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry, then the prescribing or dispensing physician shall obtain a~~[refer the patient for]~~ consultation from~~[by]~~ a physician who is certified by the American Board of Addiction Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry for an opinion as to whether continued treatment and dosage is appropriate and shall accurately document the results of that consultation in the patient chart.

d. The prescribing or dispensing physician shall adjust dosages according to the individual patient's condition and within acceptable and prevailing medical standards, with the goal of improving the patient's quality of life and ability to function in the community.

e. Every twelve (12) months following initiation of treatment, the prescribing or dispensing physician shall evaluate for and document the medical necessity for continued treatment at the established dose.

f. The prescribing or dispensing physician shall ensure that the patient is drug tested. A patient in early stages of treatment shall be tested at least once weekly and as the patient becomes more stable in treatment, the frequency of drug testing may be decreased, but shall be performed at least on a monthly basis. Individual consideration may be given for less frequent testing if a patient is in sustained remission. If the patient returns to substance use after a period of abstinence, the prescribing or dispensing physician shall resume the early treatment testing schedule, in conjunction with an adapted or intensified treatment plan. [obtain at least eight (8) drug screens from the patient within each twelve (12) month period of treatment in order to help guide the treatment plan. For patients who have demonstrated objective signs of positive treatment progress for at least two (2) years from the date of initiation of treatment, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives, the prescribing or dispensing physician shall obtain at least six (6) drug screens from the patient within each twelve (12) month period of treatment in order to help guide the treatment plan.]

(i) [At least two (2) of the drug screens shall be random and shall be coupled with a pill count.

(ii) Each drug screen shall at a minimum screen for buprenorphine, methadone, [oxycodone, other] opioids, THC, benzodiazepines, amphetamines, and cocaine.

(iii) If a drug screen indicates any abnormal findings, the prescribing or dispensing physician shall incorporate those findings into appropriate clinical reasoning to support the continuation or modification of treatment and shall accurately document the same in the patient record.

(iv) Appropriate clinical reasoning may include adjustment of dose strength, adjustment of [or] frequency of visits, increased drug screening, a consultation with a specialist, or an alternative treatment.

6. The prescribing or dispensing physician shall document a plan for handling any lost or stolen medication, which[;]

[a.] shall not provide for the automatic replacement of medication prior to the specified interval date [; and

b. If the prescribing or dispensing physician determines that it is necessary to minimize improper or illegal diversion of medications under the circumstances, shall require the patient to first report the lost or stolen medications to police or other law enforcement agencies].

Section 3. Use of transmucosal buprenorphine-mono-product or buprenorphine-combined-with-naloxone for treatment of opioid use disorder in an emergency situation or inpatient setting. (1) In an emergency, including in a hospital emergency department or similar outpatient urgent care setting, or in an inpatient setting, physicians may offer and initiate buprenorphine treatment to patients who present with opioid use disorder, without meeting the requirements established in Sections 1 and 2 of this administrative regulation and to the extent permitted by federal law, if:

(a) The physician has determined that the use of buprenorphine-mono-product or buprenorphine-combined-with-naloxone will not result in a harmful interaction with other medications or substances in the patient's system, including benzodiazepines, sedative hypnotics, carisoprodol, or tramadol;

(b) The physician obtains and documents written informed consent from the patient specific to risks and benefits of buprenorphine treatment; and

(c) The physician provides the patient with written instructions and contact information for appropriate follow up care, including bridge-provider services, residential treatment providers, and outpatient treatment providers.

(2) The physician shall initiate buprenorphine treatment under an observed induction protocol with an initial dose not to exceed the dose equivalency of four (4) milligrams buprenorphine generic tablet, which may be followed by subsequent doses, up to a

maximum of twenty-four (24) milligrams buprenorphine generic tablet, if withdrawal persists and is not improving.

Section 4. Professional Standards for Documentation of Patient Assessment, Education, Treatment Agreement and Informed Consent, Action Plans, Outcomes, and Monitoring.

(1) Each physician prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone shall obtain and document all relevant information in a patient's medical record in a legible manner and in sufficient detail to enable the board to determine whether the physician is conforming to professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone and other relevant professional standards.

(2) If a physician is unable to conform to professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone as set forth in this administrative regulation due to circumstances beyond the physician's control, or the physician makes a professional determination that it is not appropriate to comply with a specific standard, based upon the individual facts applicable to a specific patient's diagnosis and treatment, the physician shall document those circumstances in the patient's record and only prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone to the patient if the patient record appropriately justifies the prescribing or dispensing of Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone under the circumstances and in accordance with SAMHSA guidelines.

Section 5. Violations. Failure to comply with or a violation of the professional standards established in Sections[Section] 2, [and] 3, and 4 of this administrative regulation shall constitute a "departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky," in violation of KRS 311.595(12) and (9), as illustrated by KRS 311.597(4) and may constitute a violation of KRS 311.595(9), as illustrated by KRS 311.597(3), subjecting the licensed physician to sanctions authorized by KRS 311.595.

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BOARDS AND COMMISSIONS **Board of Cosmetology** **(As Amended at ARRS, May 12, 2020)**

201 KAR 12:030. Licensing, permits, and examinations.

RELATES TO: KRS 317A.020, 317A.050, 317A.060, 317A.145, 317.145]

STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires the board to promulgate administrative regulations governing licenses in cosmetology, esthetic practices, and nail technology, including the operation of schools and salons of cosmetology, esthetic practices, and nail technology. This administrative regulation establishes procedures for examinations and licensing.

Section 1. Fees. License and permit fees are set forth in 201 KAR 12:260.

Section 2. Prior Felony Convictions. An applicant for any license, permit, or examination issued or conducted by the board convicted of a prior felony shall include with his or her application:

(1) A signed letter of explanation from the applicant;

(2) A certified copy of the judgment and sentence from the issuing court; and

(3) A letter of good standing from the applicant's probation or parole officer, if currently on probation or parole.

Section 3. Reciprocal Licensing. (1) A license issued by another state shall be considered comparable if the laws of that state require at a minimum:

(a) 1,500 hours of curriculum for cosmetology;

(b) 450 hours of curriculum for nail technology;

(c) 750 hours of curriculum for esthetics; or

(d) 750 hours of curriculum for instructors.

~~(2) [A license issued by another state shall be considered comparable if the laws of that state require at a minimum:~~

~~(a) 1,500 hours of curriculum for cosmetology;~~

~~(b) 450 hours of curriculum for nail technology;~~

~~(c) 750 hours of curriculum for esthetics; or~~

~~(d) 750 hours of curriculum for instructors.~~

(2) An applicant licensed in another state may be licensed by reciprocity by submitting the Out of State Transfer Application and the following:

(a) Digital certification showing proof of a passing score on a board-approved nationally recognized theory and practical exam;

(b) Current digital certification of the out of state license from the issuing state board showing a license in active and good standing;

(c) Diploma or certified testing documents proving 12th grade equivalency education;

(d) Payment of the applicable license and endorsement fees required by 201 KAR 12:260;

(e) A copy of the applicant's government-issued photo identification; and

(f) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

(3) An applicant from a state whose licensing requirements fail to meet subsection (1) of this section shall apply for a reciprocal license by submitting:

(a) Documentation required by subsection (2)(a) through (f) of this section; and

(b) Payment of the applicable examination fees established in 201 KAR 12:260.

(4) Active duty military and family members shall apply for a reciprocal license by submitting:

(a) All documents required by subsection 2(a) through (f) of this section;

(b) The Military Transfer Application;

(c) A copy of the sponsor's active-duty or discharge orders listing the applicant as sponsor or an accompanying family member; and

(d) Payment of a twenty-five (25) dollar license fee.

(5) All requests for certification of hours or a license shall use the Certification Request Form accompanied by a copy of the applicant's government-issued photo identification and payment of the fee as set forth in 201 KAR 12:260. Certifications shall only be transmitted digitally to the reciprocal state agency.

Section 4. Permits. (1) Any person who engages in the practice of threading, makeup artistry, or eyelash artistry shall first obtain a permit from the board by submitting a completed Permit Application and paying the fee established in 201 KAR 12:260.

(2) The applicant shall include with the Permit Application:

(a) A copy of the applicant's government-issued photo identification;

(b) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months;

(c) Proof of completion of a board-approved sanitation course within the (1) year period preceding the application; and

(d) Proof of completion of a board-approved program, if applying for an eyelash artistry permit.

Section 5. Examination Registration. (1) Applicants shall register as follows:

(a) A student of a licensed cosmetology school shall register with the board at least eight (8) months prior to graduation [~~for the requested cosmetologist examination date~~];

(b) A nail technician student shall register with the board at least forty-five (45) days prior to graduation [~~for the requested nail technician examination date~~]; and

(c) An esthetician student shall register with the board at least four (4) months prior to graduation [~~for the requested esthetician examination date~~].

(2) A completed Application for Examination or Out of State Application for Examination shall be received in the Board office no later than ten (10) business days prior to the examination date to be scheduled for either the theory test or the practical demonstration component of the exam. Each exam component shall be scheduled using a separate application and payment of the fee set forth in 201 KAR 12:260.

(3) All examination applicants shall submit a two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

(4) Theory examination dates shall be valid for ninety (90) days from student notification.

(5) A passing score for the theory examination, proper application, and payment of fees shall be required prior to being scheduled for the practical examination.

(6) An applicant with curriculum hours obtained in another state shall include with the Out of State Application for Examination the following:

(a) Certification of curriculum hours from the state licensing board or agency where the hours were obtained, if the state requires the reporting of curriculum hours; or

(b) Certification of the valid licensing status of the school attended from the state board or licensing authority and an official transcript certified by the school.

(7) Examination applicants shall wear a full set of solid color medical scrubs and bring all instruments and supplies as listed on the board Web site for the practical examination. White colored scrubs or other clothing is prohibited.

Section 6. Examination Components. (1) The examination shall consist of a theory test and a practical demonstration taken from the curriculum requirements specified in 201 KAR 12:082.

(2) The practical demonstration shall be performed on a:

(a) Mannequin head and hand for the cosmetology practical examination;

(b) Mannequin head for the esthetician or blow drying services practical examination; or

(c) Mannequin hand for the nail technician practical examination.

(3) The applicant shall provide a mannequin head or hand as needed for an examination.

Section 7. Grading. (1) A minimum passing grade of seventy (70) percent on the theory test and the practical demonstration shall be required for the cosmetologist, esthetician, and nail technician examinations

(2) A minimum passing grade of eighty (80) percent on the theory test and eighty-five (85) percent on the practical demonstration shall be required for all instructor examinations.

(3) All passing exam scores shall be valid for six (6) months from completion.

Section 8. Practice before Examination Prohibited. A student engaging in the practice of cosmetology, esthetic practices, or nail technology prior to the board examination shall be ineligible to take the examination for a period of one (1) year from the date of the unauthorized practice.

Section 9. License Application. (1) An applicant who passes the examination shall have ninety (90) days following the examination to apply for a license by submitting the License Application form and the following documentation:

(a) Diploma or certified testing documents proving 12th grade equivalency education;

(b) Payment of the applicable license fee required by 201 KAR 12:260;

(c) A copy of the applicant's government-issued photo

identification; and

(d) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

(2) Failure to apply for a license as required by subsection (1) of this section shall require payment of the appropriate restoration and licensing fees set forth in 201 KAR 12:260 before a license may be issued.

(3) An applicant may apply for an apprentice instructor license to be used for training in an approved program after one (1) year of professional licensing. Applicants shall submit the Apprentice Instructor License Application and provide the following documentation:

(a) Diploma or certified testing documents proving 12th grade equivalency education;

(b) Payment of the applicable license fee required by 201 KAR 12:260;

(c) A copy of the applicant's government-issued photo identification; and

(d) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

Section 10. Retaking Examinations. (1) Any applicant who fails either the theory test or the practical demonstration may retake that portion of the examination upon submitting a new Application for Examination with a two (2) by two (2) inch passport photo of the applicant taken within the preceding six (6) months, and paying the examination fee required by 201 KAR 12:260.

(a) After three (3) failed attempts, the examinee shall be required to wait six (6) months before retaking either portion of the examination. If the examinee does not receive a passing score after the third attempt, then the individual shall take an eighty (80) hour supplemental course in theory studies at a school licensed by the board prior to being eligible to retake the examination.

(b) Following the supplemental course, the examinee may attempt the examination two (2) additional times. If the examinee fails both attempts the examinee shall be prohibited from taking the examination within three (3) years from the date of the final failed attempt.

(2) An applicant caught cheating or impersonating another shall not be allowed to retake the examination for a minimum of one (1) year from the date of the original examination.

(3) Any applicant who fails to report for the examination on the date specified by the board shall submit a new examination application and examination fee prior to being rescheduled for examination. The board may waive the examination fee for good cause shown. "Good cause" includes:

(a) An illness or medical condition of the applicant that prohibits the applicant from reporting for the examination; or

(b) A death, illness, or medical condition in the applicant's immediate family that prohibits the applicant from reporting for the examination.

(4) Documents and certificates submitted with an Application for Examination are valid for one (1) year following the date of submission after which time applicants shall submit updated documents and a new examination application.

Section 11. Duplicate Licenses, Renewal, and Restoration. (1) If a license is lost, destroyed, or stolen after issuance, a duplicate license may be issued. The licensee shall submit a statement verifying the loss of the license using the Duplicate License Application that includes a copy of a government-issued photo identification, and pay the duplicate license fee listed in 201 KAR 12:260. Each duplicate license shall be marked "duplicate".

(2) The annual license renewal period is July 1 through July 31. All licenses and permits shall:

(a) Be renewed using the Renewal Application or by using the board's online portal;

(b) Include the required copy of a government-issued photo identification;

(c) Include payment of the fee set forth 201 KAR 12:260; and

(d) Include payment of any outstanding fines associated with a prior disciplinary action as described in KRS 317A.145.

(3) To restore an expired license or permit, a Restoration

Application shall be submitted to the board with payment of the restoration fee as set forth in 201 KAR 12:260 for each year the license has been expired, the total of which shall not exceed \$300 per license restored, along with the following:

(a) For an expired individual license or permit, a copy of a government-issued photo identification;

(b) For an expired salon license or limited facility permit, a new Salon Application or Limited Facility Permit Application; or

(c) For an expired school license, a new School Application

Section 12. Salon and Facility Applications. (1) Each person, firm, or corporation applying for a license to operate a new or relocating beauty salon, nail salon, esthetic salon, or limited facility shall submit the Salon Application or Limited Facility Permit Application with required copies of state identification and driver's licenses, pay the applicable fee set forth in 201 KAR 12:260, and [be inspected] request an inspection by the board inspector in writing a minimum of five (5) business days prior to opening for business.

(2) A new or relocating salon or facility shall comply with all applicable city, county, state zoning, building, and plumbing laws, administrative regulations, and codes.

(3) A salon or facility may be located on the premises of a nursing home or assisted living facility if the salon or facility meets all requirements of this section.

(4) Any salon or facility located in a residence shall have a separate outside entrance for business purposes only. This subsection shall not apply to a nursing home or assisted living facility if the home or facility has obtained a salon license from the board.

(5) A salon or facility shall not open for business prior to issuance of its license or permit.

(6) Each salon shall maintain a board licensed manager properly licensed in the services the salon provides at all times.

(7) Salon and limited beauty salon licenses and facility permits shall be mailed to the Kentucky mailing address on the application.

Section 13. Change in Salon Ownership or Transfer of Interest.

(1) The owners, firm, or corporation operating a licensed salon shall submit to the board a new Salon Application, Limited Facility Permit Application, or Manager Change Form and payment of the license or change fee as set forth in 201 KAR 12:260 no later than thirty (30) business days prior to selling, transferring, or changing ownership ~~[or changing managers]~~.

(2) All manager changes shall be made with the board within ten (10) business days.

(3) [(2)] No transfer of ownership interest in a salon shall take effect while the salon license to be transferred is the subject of ongoing disciplinary action pursuant to KRS 317A.145.

Section 14. School Licenses. (1) Each person, firm, or corporation applying for a license to operate a school shall submit a School Application and the applicable fee set forth in 201 KAR 12:260.

(2) The School Application shall be accompanied by:

(a) A proposed student contract listing all financial charges to enrolling students; and

(b) A proposed floor plan drawn to scale by a draftsman or architect.

(3) Each school shall comply with city, county, and state zoning, building, and plumbing laws, administrative regulations and codes.

(4) Prior to license issuance and following the receipt of a completed application with all accompanying materials, the board inspector and board administrator, or their designee shall conduct an inspection.

(5)(a) The inspection shall be completed within twelve (12) months of the date that the School Application and all accompanying materials are received unless the board extends the time period for good cause. "Good cause" includes:

1. An illness or medical condition of the applicant that prohibits the applicant from completing the final preparations; or

2. A death, illness, or medical condition in the applicant's

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immediate family that prohibits the applicant from completing the final preparations.

(b) Requests for an extension of time shall be submitted in writing to the board and include the following:

1. The reason for the extension and the term of the request; and

2. Supportive documentation of the extension request.

(6) A license to operate a school shall be valid only for the location and person, firm, or corporate owner named on the application. A school license shall not be transferable from one (1) location to another or from one (1) owner to another.

(7) The school license shall contain:

(a) The name of the proposed school; and

(b) A statement that the proposed school may operate educational programs beyond secondary education.

(8) Each licensed school shall maintain a board licensed instructor as school manager at all times.

Section 15. Change in School Ownership or Management. (1) The owners, firm, or corporation operating a licensed school shall submit to the board a new School Application or a Manager Change Form and payment of the applicable fee set forth in 201 KAR 12:260 no later than thirty (30) business days prior to selling, transferring, or changing ownership. ~~[or changing school managers.]~~

(2) All manager changes shall be made with the board within ten (10) business days.

~~(3)~~(2) A prospective owner(s) or manager shall meet all qualifications of KRS Chapter 317A and 201 KAR Chapter 12, and obtain approval of the board prior to assuming operation of the school.

Section 16. Classification as School. Any person, establishment, firm, or corporation that accepts, directly or indirectly, compensation for teaching any subject of cosmetology as defined in KRS 317A.010 shall comply with KRS Chapter 317A and 201 KAR Chapter 12.

Section 17. Owner and Manager Student Prohibited. An owner, partner, stockholder, corporate officer, or a manager of a licensed school shall not be enrolled as a student in the school.

Section 18. Board Member Disclosure. A board member shall disclose to the board a financial interest in a salon or school when submitting an application for a salon or school license.

Section 19. Demonstration Permits. Professional services performed outside a licensed facility shall have approval of the board and display the proper permit. Permits may be obtained by completing the Demonstration Permit Application and paying the applicable fee set forth in 201 KAR 12:260.

Section 20. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Out of State Transfer Application", ~~April 2020~~December ~~[June]~~ [2019];

(b) "Military Transfer Application", October 2018;

(c) "Certification Request Form" October 2018;

(d) "Permit Application", ~~December~~ [January] 2019;

(e) "Application for Examination", June 2019;

(f) "Out of State Application for Examination", October 2018;

(g) "License Application", June 2019;

(h) "Apprentice Instructor License Application", June 2019;

(i) "Duplicate License Application", January 2019;

(j) "Renewal Application", January 2019;

(k) "Restoration Application", June 2019;

(l) "Salon Application", June 2019;

(m) "Limited Facility Permit Application", ~~April 2020~~December ~~[June]~~ [2019];

(n) "Manager Change Form", October 2018;

(o) "School Application", October 2018; and

(p) "Demonstration Permit Application", October 2018.

(2) This material may be inspected, copied, or obtained,

subject to applicable copyright law, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Julie Campbell, Board Administrator, 111 St. James Court, STE A, Frankfort, Kentucky 40601, phone 1-502-564-4262, email julie.campbell@ky.gov.

BOARDS AND COMMISSIONS
Kentucky Board of Cosmetology
(As Amended at ARRS, May 12, 2020)

201 KAR 12:060. Inspections.

RELATES TO: KRS 317A.060, 317A.140 ~~[, 317B.020]~~

STATUTORY AUTHORITY: KRS 317A.060 ~~[, 317B.020]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires [and 317B.020 requires] the board to promulgate administrative regulations governing the operation of any schools and salons of cosmetology, nail technology, threading, and esthetics, and to protect the health and safety of the public. This administrative regulation establishes inspection and health and safety requirements for all schools and salons of cosmetology, nail technology, threading, and esthetics.

Section 1. Public Display.

(1)(a) Each licensee or permit holder shall attach his or her picture to the license or permit and place it in an accessible and~~[a]~~ conspicuous area in the salon or school.

(b) Each licensed facility's license shall be posted in an accessible and~~[a]~~ conspicuous area with the information required by this subsection.

(2) A conspicuous area shall be visible to the public and shall include:

(a) The main entrance door or window of the premises; and

(b) The workstation of the employee.

(3) A salon or school manager shall have the manager's license posted with a picture in an accessible and~~[a]~~ conspicuous area at all times.

(4) A school shall, at all times, display in a centralized and accessible conspicuous public place the student permits of all students enrolled.

(5) Each licensed salon, facility, or school shall post the most recent inspection report in an accessible and~~[a]~~ conspicuous area.

Section 2. Inspections.

(1) Any board member, administrator, or inspector may enter any establishment licensed by this board or any place purported to be practicing cosmetology, nail technology, threading, or esthetics, during normal working hours or at any time when the establishment is open to the public, for the purpose of determining if an individual, salon, or school is complying with KRS Chapter 317A ~~[or 317B.]~~ and 201 KAR Chapter 12.

(2) A board member, administrator, or inspector may require the licensee or permittee to produce for inspection and copying books, papers, or records required by the board or pertaining to licensed activity.

(3) Each establishment licensed by the board shall be inspected a minimum of two (2) times per year.

(4) A salon or school shall schedule an inspection of the salon or school after an inspector twice attempts, but is unable, to inspect the salon or school.

(5) Failure of the salon or school owner or manager to schedule an inspection within thirty (30) days of two (2) consecutive failed inspection attempts shall constitute unprofessional conduct.

(6) The owner and manager of each establishment licensed by the board shall be responsible for compliance with KRS Chapter~~[Chapters]~~ 317A [and 317B.] and 201 KAR Chapter 12.

Section 3. Unprofessional Conduct. Unprofessional conduct under KRS 317A.140 includes the following:

(1) Intentionally withholding information or lying to a board member or board employee who is conducting a lawful inspection or investigation of an alleged or potential violation of KRS Chapter 317A or 201 KAR Chapter 12;

(2) A salon or school remaining open to the public if not appropriately licensed by the board;

(3) Providing cosmetology, nail technology, esthetic, or threading services unless appropriately licensed or permitted by the board under 201 KAR Chapter 12; ~~for~~

(4) Failure to comply with the lawful request of the board, or the board administrator, inspector, or agent for the following:

(a) Permit inspection of the licensed premises; or

(b) Permit inspection of or the copying or production of books, papers, documents, or records of information or material pertaining to activity licensed by the board or related to the provisions of KRS Chapter 317A or the administrative regulations promulgated by the board; ~~or~~]

(5) Any attempt by a license or permit holder to bribe a Kentucky Board of Cosmetology representative.

Section 4. Signage. The main entrance to any establishment licensed by the board shall display a sign indicating a beauty salon, nail salon, esthetic salon, or cosmetology school. The sign shall indicate the name of the salon or school as it is registered with the Kentucky Board of Cosmetology and shall be clearly visible at the main entrance of the establishment.

CONTACT PERSON: Julie M. Campbell, Board Administrator, 111 St. James Ct. Ste A. Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481, julie.campbell@ky.gov.

BOARDS AND COMMISSIONS
Kentucky Board of Cosmetology
(As Amended at ARRS, May 12, 2020)

201 KAR 12:082. Education requirements and school administration.

RELATES TO: KRS 317A.020, 317A.050, 317A.090

STATUTORY AUTHORITY: KRS 317A.060, 317A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060(1)(h) requires the board to promulgate administrative regulations governing the hours and courses of instruction at schools of cosmetology, esthetic practices, and nail technology. KRS 317A.090 establishes licensing requirements for schools of cosmetology, esthetic practices, and nail technology. This administrative regulation establishes requirements for the hours and courses of instruction, reporting, education requirements, and administrative functions required for students and faculty for schools of cosmetology, esthetic practices, and nail technology.

Section 1. Subject Areas. The regular courses of instruction for cosmetology students shall contain courses relating to the subject areas identified in this section.

(1) Basics:

(a) History and Career Opportunities;

(b) Life Skills;

(c) Professional Image; and

(d) Communications.

(2) General Sciences:

(a) Infection Control: Principles and Practices;

(b) General Anatomy and Physiology;

(c) Skin Structure, Growth, and Nutrition;

(d) Skin Disorders and Diseases;

(e) Properties of the Hair and Scalp;

(f) Basic Chemistry; and

(g) Basics of Electricity.

(3) Hair Care:

(a) Principles of Hair Design;

(b) Scalp Care, Shampooing, and Conditioning;

(c) Hair Cutting;

(d) Hair Styling;

(e) Braiding and Braid Extensions;

(f) Wig and Hair Additions;

(g) Chemical Texture Services; and

(h) Hair Coloring.

(4) Skin Care:

(a) Hair Removal;

(b) Facials; and

(c) Facial Makeup.

(5) Nails:

(a) Manicuring;

(b) Pedicuring;

(c) Nail Tips and Wraps;

(d) Monomer Liquid and Polymer Powder Nail Enhancements;

and

(e) Light Cured Gels.

(6) Business Skills:

(a) Preparation for Licensure and Employment;

(b) On the Job Professionalism; and

(c) Salon Businesses.

Section 2. A school of cosmetology, esthetic practices, and nail technology shall teach the students about the various supplies and equipment used in the usual salon practices.

Section 3. Instructional Hours.

(1) A cosmetology student shall receive not less than 1,500 hours in clinical class work and scientific lectures with a minimum of:

(a) 375 lecture hours for science and theory;

(b) 1,085 clinic and practice hours; and

(c) Forty (40) hours on the subject of applicable Kentucky statutes and administrative regulations.

(2) A cosmetology student shall not perform chemical services on the public until the student has completed a minimum of 250 hours of instruction.

Section 4. Training Period for Cosmetology Students, Nail Technician Students, Esthetician Students, and Apprentice Instructors.

(1) A training period for a student shall be no more than ten (10) hours per day, forty (40) hours per week.

(2) A student shall be allowed thirty (30) minutes per eight (8) hour day or longer for meals or a rest break. This thirty (30) minute period shall not be credited toward a student's instructional hours requirement.

Section 5. Laws and Regulations.

(1) At least one (1) hour per week shall be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and 201 KAR Chapter 12.

(2) Schools of cosmetology, esthetic practices, and nail technology, shall provide a copy of KRS Chapter 317A and 201 KAR Chapter 12 to each student upon enrollment.

Section 6. Nail Technician Curriculum. The nail technician course of instruction shall include the following:

(1) Basics:

(a) History and Opportunities;

(b) Life Skills;

(c) Professional Image; and

(d) Communications.

(2) General Sciences:

(a) Infection Control: Principles and Practices;

(b) General Anatomy and Physiology;

(c) Skin Structure and Growth;

(d) Nail Structure and Growth;

(e) Nail Diseases and Disorders;

(f) Basics of Chemistry;

(g) Nail Product Chemistry; and

(h) Basics of Electricity.

(3) Nail Care:

(a) Manicuring;

(b) Pedicuring;

- (c) Electric Filing;
- (d) Nail Tips and Wraps;
- (e) Monomer Liquid and Polymer Powder Nail Enhancements;
- (f) UV and LED Gels; and
- (g) Creative Touch.
- (4) Business Skills:
 - (a) Seeking Employment;
 - (b) On the Job Professionalism; and
 - (c) Salon Businesses.

Section 7. Nail Technology Hours Required.

(1) A nail technician student shall receive no less than 450 hours in clinical and theory class work with a minimum of:

- (a) 150 lecture hours for science and theory;
- (b) Twenty-five (25) hours on the subject of applicable Kentucky statutes and administrative regulations; and
- (c) 275 clinic and practice hours.

(2) A nail technician student shall have completed sixty (60) hours before providing services to the general public. Clinical practice shall be performed on other students or mannequins during the first sixty (60) hours.

Section 8. Apprentice Instructor Curriculum. The course of instruction for an apprentice instructor shall include no less than 750 hours, 425 hours of which shall be in direct contact with students. 325 hours of the required theory instruction may be taken in person or online, in the following areas:

- (1) Orientation;
- (2) Psychology of student training;
- (3) Introduction to teaching;
- (4) Good grooming and professional development;
- (5) Course outlining and development;
- (6) Lesson planning;
- (7) Teaching techniques (methods);
- (8) Teaching aids, audio-visual techniques;
- (9) Demonstration techniques;
- (10) Examinations and analysis;
- (11) Classroom management;
- (12) Recordkeeping;
- (13) Teaching observation;
- (14) Teacher assistant; and
- (15) Pupil teaching (practice teaching).

Section 9. Supervision. An apprentice instructor shall be under the immediate supervision and instruction of a licensed instructor during the school day. An apprentice instructor shall not assume the duties and responsibilities of a licensed supervising instructor.

Section 10. Instructors Online Theory Course. All online theory instruction completed to comply with Section 8 of this administrative regulation shall be administered from an approved digital platform at a licensed Kentucky school of cosmetology, esthetic practices, or nail technology.

Section 11. Additional Coursework. Apprentice Esthetics and Nail Technology Instructors shall also complete an additional fifty (50) hours of advanced course work in that field within a two (2) year period prior to the instructor examination.

Section 12. Schools may enroll persons for a special supplemental course in any subject.

Section 13. Esthetician Curriculum. The regular course of instruction for esthetician students shall consist of courses relating to the subject areas identified in this section.

- (1) Basics:
 - (a) History and Career Opportunities;
 - (b) Professional Image; and
 - (c) Communication.
- (2) General Sciences:
 - (a) Infection Control: Principles and Practices;
 - (b) General Anatomy and Physiology;
 - (c) Basics of Chemistry;

- (d) Basics of Electricity; and
- (e) Basics of Nutrition.
- (3) Skin Sciences:
 - (a) Physiology and Histology of the Skin;
 - (b) Disorders and Diseases of the Skin;
 - (c) Skin Analysis; and
 - (d) Skin Care Products: Chemistry, Ingredients, and Selection.
- (4) Esthetics:
 - (a) Treatment Room;
 - (b) Basic Facials;
 - (c) Facial Massage;
 - (d) Facial Machines;
 - (e) Hair Removal;
 - (f) Advanced Topics and Treatments; and
 - (g) Makeup.
- (5) Business Skills:
 - (a) Career Planning;
 - (b) The Skin Care Business; and
 - (c) Selling Products and Services.

Section 14. Esthetician Hours Required.

(1) An esthetician student shall receive no less than 750 hours in clinical and theory class work with a minimum of:

- (a) 250 lecture hours for science and theory;
- (b) Thirty-five (35) hours on the subject of applicable Kentucky statutes and administrative regulations; and
- (c) 465 clinic and practice hours.

(2) An esthetician student shall have completed 115 hours before providing services to the general public. Clinical practice shall be performed on other students or mannequins during the first 115 hours.

Section 15. Blow Drying Services License Subject Areas. The regular courses of instruction for blow drying services license students shall contain courses relating to the subject areas identified in this section.

- (1) Basics:
 - (a) History and Career Opportunities;
 - (b) Life Skills;
 - (c) Professional Image; and
 - (d) Communications.
- (2) General Sciences:
 - (a) Infection Control: Principles and Practices;
 - (b) General Anatomy and Physiology of head, neck and scalp;
 - (c) Skin Disorders and Diseases of head, neck and scalp;
 - (d) Properties of the Hair and Scalp; and
 - (e) Basics of Electricity.
- (3) Hair Care:
 - (a) Principles of Hair Design;
 - (b) Scalp Care, Shampooing, and Conditioning;
 - (c) Hair Styling;
 - (d) Blow drying;
 - (e) Roller Placement;
 - (f) Finger waves/ pin curls;
 - (g) Thermal curling;
 - (h) Flat iron styling;
 - (i) Wig and Hair Additions; and
 - (j) Long hair styling.
- (6) Business Skills:
 - (a) Preparation for Licensure and Employment;
 - (b) On the Job Professionalism; and
 - (c) Salon Businesses.

Section 16. Blow Drying Services License Hours Required.

(1) A blow drying services license student shall receive no less than 400 hours in clinical and theory class work with a minimum of:

- (a) 150 lecture hours for science and theory;
- (b) Twenty-five (25) hours on the subject of applicable Kentucky statutes and administrative regulations; and
- (c) 275 clinic and practice hours.

(2) A blow drying services license student shall have completed sixty (60) hours before providing services to the general public. Clinical practice shall be performed on other students or

mannequins during the first sixty (60) hours.

Section 17. Extracurricular Events. Each cosmetology, nail technician, and esthetician student shall be allowed up to sixteen (16) hours for field trip activities pertaining to the profession of study, sixteen (16) hours for attending educational programs, and sixteen (16) hours for charitable activities relating to the field of study, totaling not more than forty-eight (48) hours and not to exceed eight (8) hours per day. Attendance or participation shall be reported to the board within ten (10) business days of the field trip, education show, or charitable event on the Certification of Student Extracurricular Event Hours form.

Section 18. Student Records. Each school shall:

(1) Maintain a legible and accurate daily attendance record **used only for the verification and tracking of the required contact hours for education** for all full-time students, part-time students, and apprentice instructors with records that shall be recorded using a digital biometric time keeping program **as follows:**

(a) All beginning, end, break, and lunch times shall be recorded;

(b) All instructors **[also]** shall comply with the biometric time keeping system; **and**

(c) Previously licensed schools will have six (6) months from **the effective date of this administrative regulation/enactment** to comply.

(2) Keep a record of each student's practical work and work performed on clinic patrons;

(3) Maintain a detailed record of all student enrollments, withdrawals, and dismissals for a period of five (5) years; and

(4) Make records required by this section available to the board and its employees upon request.

Section 19. Certification of Hours.

(1) Schools shall forward to the board digital certification of a student's hours completed within ten (10) business days of a student's withdrawal, dismissal, completion, or the closure of the school.

(2) No later than the 10th day of each month, a licensed school shall submit to the board via electronic delivery a certification of each student's total hours obtained for the previous month and the total accumulated hours to date for all students enrolled. Amended reports shall not be accepted by the board without satisfactory proof of error. Satisfactory proof of error shall require, at a minimum, a statement signed by the school manager certifying the error and the corrected report.

Section 20. No Additional Fees. Schools shall not charge students additional fees beyond the contracted amount.

Section 21. Instructor Licensing and Responsibilities.

(1) A person employed by a cosmetology, nail technology, or esthetic practices school for the purpose of teaching or instruction shall be licensed by the board as an instructor and shall post his or her license as required by 201 KAR 12:060.

(2) A licensed instructor or apprentice instructor shall supervise all students during a class or practical student work.

(3) An instructor or apprentice instructor shall render services only incidental to and for the purpose of instruction.

(4) Licensed schools shall not permit an instructor to perform services in the school for compensation during school hours.

(5) An instructor shall not permit students to instruct or teach other students in the instructor's absence.

(6) Except as provided in subsection (7) of this section, schools may not permit a demonstrator to teach in a licensed school.

(7) A properly qualified, licensed individual may demonstrate a new process, preparation, or appliance in a licensed school if a licensed instructor is present.

(8) Licensed schools of cosmetology, esthetic practices, and nail technology shall, at all times, maintain a minimum faculty to student ratio of one (1) instructor for every twenty (20) students enrolled and supervised.

(9) Licensed schools of cosmetology, esthetic practices, and nail technology shall, at all times, maintain a minimum ratio of one (1) instructor for every two (2) apprentice instructors enrolled and supervised.

(10) Within ten (10) business days of the termination, employment, and other change in school faculty personnel, a licensed school shall notify the board of the change.

Section 22. School Patrons.

(1) All services rendered in a licensed school to the public shall be performed by students. Instructors may teach and aid the students in performing the various services.

(2) A licensed school shall not guarantee a student's work.

(3) A licensed school shall display in the reception room, clinic room, or any other area in which the public receives services a sign to read: "Work Done by Students Only." The letters shall be a minimum of one (1) inch in height.

Section 23. Enrollment.

(1) Any person enrolling in a school for a cosmetology, nail technician, or esthetics course shall furnish proof that the applicant has:

(a) A high school diploma,

(b) A General Educational Development (GED) diploma; or

(c) Results from the Test for Adult Basic Education indicating a score equivalent to the successful completion of the twelfth grade of high school.

(2) The applicant shall provide with the enrollment a passport photograph taken within thirty (30) days of submission of the application.

(3) A student enrolling in a licensed school who desires to transfer hours from an out of state school shall, prior to enrollment, provide to the board certification of the hours to be transferred from the state agency that governs the out of state school.

(4) If the applicant is enrolled in a board approved program at an approved Kentucky high school, the diploma, GED, or equivalency requirement of this Section is not necessary until examination.

Section 24. Certificate of Enrollment.

(1) Schools shall submit to the board the student's digital enrollment, accompanied by the applicant's proof of education, as established in Section 23 of this administrative regulation, within ten (10) business days of enrollment.

(2) All student identification information on the school's digital enrollment shall exactly match a state or federal government-issued identification card to take the examination. If corrections shall be made, the school shall submit the Enrollment Correction Application and the enrollment correction fee in 201 KAR 12:260 within ten (10) days of the erroneous submission. Students with incorrect enrollment information shall not be registered for an examination.

Section 25. Student Compensation.

(1) Schools shall not pay a student a salary or commission while the student is enrolled at the school.

(2) Licensed schools shall not guarantee future employment to students.

(3) Licensed schools shall not use deceptive statements and false promises to induce student enrollment.

Section 26. Transfer. A student desiring to transfer to another licensed school shall:

(1) Notify the school in which the student is presently enrolled of the student's withdrawal; and

(2) Complete a digital enrollment as required for the new school.

Section 27. Refund Policy. A school shall include the school's refund policy in school-student contracts.

Section 28. Student Complaints. A student may file a complaint with the board concerning the school in which the student is enrolled, by following the procedures outlined in 201 KAR 12:190.

Section 29. Student Leave of Absence. The school shall report a student's leave of absence to the board within ten (10) business days. The leave shall be reported:

- (1) In writing from the student to the school; and
- (2) Clearly denote the beginning and end dates for the leave of absence.

Section 30. Student Withdrawal. Within ten (10) business days from a student's withdrawal, a licensed school shall report the name of the withdrawing student to the board.

Section 31. Credit for Hours Completed. The board shall credit hours previously completed in a licensed school as follows:

- (1) Full credit (hour for hour) for hours completed within five (5) years of the date of school enrollment; and
- (2) No credit for hours completed five (5) or more years from the date of school enrollment.

Section 32. Program Transfer Hours. If a current licensee chooses to enter into the practice of cosmetology, they shall complete and submit the Program Hour Transfer Request Form. Upon receiving a completed Program Hour Transfer Request Form, the board shall treat the transferred license as earned credit hours in a cosmetology program subject to the following:

- (1) Transfer of a current esthetics license shall credit the transferee no more than 400 hours in a cosmetology program;
- (2) Transfer of a current nail technologist license shall credit the transferee no more than 200 hours in a cosmetology program;
- (3) Transfer of a current blow drying services license shall credit the transferee no more than 300 hours in a cosmetology program; or
- (4) Transfer of a current barber license shall credit the transferee no more than 750 hours in a cosmetology program.
- (5) Credit hours transferred pursuant to this section shall only take effect upon the transferee's completion of the remaining hours necessary to complete a cosmetology program.

Section 33. Incorporation by Reference. The following material is incorporated by reference:

- (1)(a) "Certification of Student Extracurricular Event Hours", October 2018;
- (b) "Enrollment Correction Application", October 2018; and
- (c) "Program Hour Transfer Request Form", April 2020~~January 2019~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
 [(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

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BOARDS AND COMMISSIONS
Kentucky Board of Cosmetology
(As Amended at ARRS, May 12, 2020)

201 KAR 12:100. Infection control, health, and safety~~[Sanitation standards]~~.

RELATES TO: KRS 317A.130

STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires~~authorizes~~ the Kentucky Board of Cosmetology to regulate the practice of cosmetology, nail technology, and esthetics in Kentucky and establish standards for the course and conduct of school owners, instructors, apprentice

instructors, licensed cosmetologists, nail technicians, beauty salons, nail salons, cosmetology schools, and estheticians to protect the health and safety of the public. This administrative regulation establishes infection control, health, and safety ~~[sanitation]~~ standards for all licensed facilities.

Section 1. ~~[Health and Public Safety][General Sanitation]~~.
~~The entire licensed facility, including all equipment, employees, and implements contained in the facility, shall be continually maintained in a safe manner that reduces the risk of injury or illness for both the consumer and the licensee~~~~[sanitary manner]~~~~[.]~~

Section 2.] Definitions.

(1) (a) "Clean" means:

1. Removal of surface ~~or~~~~and/or~~ visible debris by using soap, detergent, or chemical "cleaner", followed by a clean water rinse;

2. ~~Preparing~~~~Prepares~~ non-porous items for disinfection by removing debris, product residues, organic matter, and oils that may interfere with disinfection chemicals; and

3. ~~Reducing~~~~Reduces~~ the number and ~~slowing~~~~slows~~ the growth of pathogens on both porous and non-porous surfaces; and

(b) "Clean" ~~[.]~~ Cleaning does not mean making~~[make]~~ multi-use items safe for use.

(2) "Contact time" means:

(a) The amount of wet contact time required for a disinfectant to be effective against the pathogens on the label; and

(b) ~~The~~~~;~~ clean items or surfaces ~~[must]~~ remain completely immersed or visibly wet ~~through the use of~~ ~~[/sprays or/]~~ wipes~~[/]~~ for the full contact time to be effective.

(3) "Disinfect" means:

(a) The process of making a non-porous item safe for use; and

(b) ~~Including~~~~Requires~~ the use of a chemical intended to kill or denature a bacteria, virus, or fungus. ~~Items to be disinfected must be cleaned prior to disinfection. Proper disinfection requires adherence to manufacturers label with regard to concentration and contact time. UV light is not acceptable for disinfection.~~

(4) "Disinfectant" means an approved disinfectant ~~that is~~~~shall be~~.

(a) Environmental Protection Agency (EPA) registered bactericidal, virucidal, and fungicidal disinfectant ~~[that is]~~ approved for use in the salon or spa environment, and used in accordance with the instruction label for dilution ratio and contact time; or

(b) 1. EPA-registered Sodium Hypochlorite 5.25 percent or higher (household chlorine bleach) product used in accordance with the instructions for disinfection and dilution on the label; and

2. ~~Uses~~~~;~~ bleach ~~[shall be]~~ active (not expired) with a manufacture date of less than six (6) months prior to use.

(5) "Non-Porous" means:

(a) Material that has no pores and does not allow for liquids to be absorbed or ~~passed~~~~pass~~ through; and

(b) ~~[.]~~ Common non-porous materials include glass, metal, and plastic.

(6) "Porous" ~~means~~~~;~~ a material that has minute spaces or holes through which liquid or air may pass ~~making it~~~~it~~ permeable, penetrable, and cellular.

(7) "Sterilize" ~~means~~~~;~~ the eradication of all microbial life through the use of heat, pressure, steam, or chemical sterilants. ~~Autoclaves used to sterilize must be spore tested through an independent lab every 30 days to ensure functionality. Lab results must be kept onsite for 12 months.~~

Section 2. Health and Public Safety. The entire licensed facility, including all equipment, employees, and implements contained in the facility, shall be continually maintained in a safe manner that reduces the risk of injury or illness for both the consumer and the licensee.~~[Methods of Sanitizing:~~

~~(1) All implements used on the public shall be sanitized. Each method of sanitation shall be bacteriologically effective.~~

~~(2) A commercially prepared sanitizing agent or disinfectant shall be used in accordance with the manufacturer's instructions. An approved sanitizing agent or disinfectant shall be:~~

(a) ~~Environmental Protection Agency (EPA) registered bactericidal, virucidal and fungicidal disinfectant that is approved for use in hospital settings and used in accordance with the instruction label for dilution ratio and contact time; or~~

(b) ~~EPA-registered Sodium Hypochlorite 5.25 percent or higher (household bleach) product used in accordance with the instructions for disinfection and dilution on the label. Bleach shall be active (not expired) with a manufacture date of less than six (6) months prior to use.]~~

Section 3. Cleaning and Disinfecting.

(1) All non-porous implements used on the public shall be cleaned and disinfected before each use including items such as, but not limited to combs, brushes, shears, hair clips, hair rollers, pushers, nippers, and plastic or metal spatulas.

(2) Disinfectants shall be used properly to disinfect in accordance with the manufacturer's instructions or on the manufacturer's label with regard to concentration and contact time. UV light shall not be acceptable for disinfection.

(3) Each non-porous implement used in a licensed facility shall first be thoroughly cleaned prior to disinfection with warm soapy water or a chemical cleaner. Non-porous surfaces, such as workstations and nail tables, shall be cleaned with a wipe or spray [as defined above] prior to each service. [, then;]

(4) After cleaning, implements shall be rinsed and dried with a single use paper towel or air dried. [, then;]

(5) Implements shall then be disinfected by completely immersing in an appropriate disinfectant for the full contact time listed on the manufacturer's label. If [Where] appropriate, disinfecting wipes and sprays may also be used. [, then;]

(6) When the full contact time has been met, implements shall be removed, rinsed, and dried with a single use paper towel or air dried.

(7) Disinfected implements shall be stored in a clean, covered container or drawer labeled as "disinfected" or "ready to use". Dirty items shall be kept in a covered container, labeled "dirty" until they are properly disinfected. Once an item has been placed in the "dirty" container, it shall[may] not be removed until the cleaning and[&] disinfecting process has been started.

Section 4. Chemical Safety. All chemicals used in a licensed facility shall be:

(1) Transported and stored in accordance with the manufacturer's label;

(2) Stored in original containers in [locked] cabinets that may be locked[lacked,] that are not in public spaces or bathrooms;

(3) Mixed and applied to individuals [as] specifically as instructed by the manufacturer's label, including patch tests; [and]

(4) Discarded according to the manufacturer's label and, if applicable, local, state, and federal rules; and

(5) All chemicals that are concentrates mixed into a container or distributed into a secondary container, shall[must] be labeled to indicate the contents. All poisonous substances shall[must] be clearly labeled [as-such].

Section 5. Disinfectant.[4. Disinfection of Implements and Spills; Blood and Body Fluids.

(1) Each implement and surface used in a licensed facility shall first be thoroughly cleaned prior to disinfection.]

(1)[(a)] Disinfectants shall be prepared fresh daily and any [each] time the solution becomes diluted or soiled.

(2)[(b)] Contact time. To disinfect [clean] a non-porous surface, it shall be left wet or completely immersed for the full contact time [ten (10) minutes or longer as] required by the manufacturer for disinfecting against HIV, HBV, and all other viruses, bacteria, and fungi. If no contact time is indicated for disinfecting, the product is not an EPA registered disinfectant.

(c) Any nonporous surface that comes in contact with blood or body fluids shall first be cleaned with warm soapy, detergent water, and then an appropriate disinfectant shall be used.

(2) All used implements shall first be cleaned of visible dirt, debris, or bodily fluids with warm soapy, detergent water and then disinfected by completely immersing in an appropriate disinfectant.

(a) ~~All implements that come into contact with intact skin, blood, or bodily fluids shall be thoroughly cleaned before immersion in an appropriate disinfectant.~~

(b) ~~For personal protection against blood-borne pathogens, cleanup shall be done wearing protective gloves and gowns. Eye protection shall be used for large spills.]~~

(3) A container other than the original manufacturer's container used for immersing or application of appropriate disinfectant shall be properly labeled as to contents, [percentage solution, and date mixed.

(4) ~~Cleanup items from minor cuts or items containing blood or other bodily fluids shall be double bagged or placed in biohazard containers. A licensee shall consult with the local health department for directions about disposal of biohazard containers.~~

(5) ~~Styptics to arrest bleeding shall be used only in liquid or powder form and shall be applied by clean gauze, cotton, or any other sanitary item.]~~

(4)[(6)] All Food and Drug Administration (FDA) designated "medical devices" shall only be disinfected by appropriate EPA-approved disinfectants in accordance with the manufacturer's instructions. [

(7) ~~All esthetics facilities shall employ a sharp's disposal container as needed for disposal of hazardous materials.]~~

Section 6. Towel Warmers. [Disinfection Procedures.]

(1) ~~[Shampoo bowls. All shampoo bowls or similar items shall be sanitized after each use.~~

(2) Towel warmers shall be disinfected daily using disinfecting [sanitizing] wipes or a spray and left open to allow the warmer to dry completely.

(2)[(3)] Towels used in a towel warmer both wet and dry shall be washed daily, regardless if[of] used or not, and replaced at the opening of each day.

Section 7. Nail and Pedicure Stations. [

(4) ~~Electrical equipment that provides circulating, whirlpool, or vacuum effects including a microdermabrasion or facial machine and a]~~

(1) Pedicure stations[station] shall be cleaned and disinfected after each use by: [removing all movable parts by:]

(a) Removing all removable parts;

(b) Emptying[Empty] bowl and scrub with detergent and scrub brush;

(c) Rinsing[Rinse] bowl and filling[fill] with clean water;

(d) Adding[Add] appropriate disinfectant [as defined above] in a proper concentration for the size of bowl; and

(e) 1. If the bowl has any circulation or whirlpool effect, allow disinfectant to circulate for full[fill] contact time as listed on the manufacturer's label; or

2. If there is no circulation or whirlpool effect, allow disinfectant to stand in bowl for full contact time as listed on the manufacturer's[manufacturers] label.

(2) Surfaces of nail stations shall be disinfected between clients.

(3) Nail clients shall be offered hand sanitizer prior to a service.

(4) A nail drill or body treatment equipment shall be:

(a) Cleaned and disinfected after each use by removing all removable parts; and

(b) Following the specific disinfection instructions recommended by the manufacturer.

(5) Drill bits shall be soaked in acetone to remove product, scrubbed, and soaked in disinfectant for full contact time after each use.[

1. ~~Filling, circulating, cleaning, and disinfecting with the use of hospital grade disinfectant; or~~

2. ~~The ten (10) percent bleach solution that is circulated through the machine for the minimum time recommended by the manufacturer; and~~

(b) Rinsing and air drying, or wiping dry with a clean cloth or paper towel.

(3) A nail drill or body treatment equipment shall be:

(a) ~~Cleaned and disinfected after each use by removing all movable parts; and~~

(b) 1. Flushed, cleaned, and disinfected bi-weekly with the use of hospital-grade disinfectant; or

2. The ten (10) percent bleach solution circulated through the machine for the minimum time recommended by the manufacturer.]

Section 8. Electrical Implements.

(1)[(6)] Heated electrical equipment, such as a thermal iron [shall be sanitized] are disinfected by the heat source. Unheated parts of heated electrical equipment shall be cleaned and disinfected according to the manufacturer's recommendations.

(2)[(7)] All other electrical equipment, including clippers and attachments, shall be cleaned and disinfected after each use by:

(a) Removing hair and all foreign matter from the equipment; and

(b) Completely saturating the clipper blade and attachment with an EPA-registered high level disinfectant solution, spray, or foam used according to the manufacturer's instructions.[]

(8) All nonporous items to be used on multiple clients shall be cleaned and disinfected after use.

(9) Drill bits shall be soaked in acetone to remove product, scrubbed, and soaked in disinfectant for full contact time.

(10) All non-electrical items required to be cleaned and disinfected after each use including, combs, brushes, shears, hair clips, hair rollers, pushers, nippers, and plastic or metal spatulas shall be cleaned and disinfected. All multi-use items shall be stored in clean, covered container marked "disinfected" or "ready to use".]

Section 9. Waxing Services.

(1) Waxing services shall[may] only be performed on intact skin.

(2) Wax applicator sticks shall[may] only be used for a single dip into the wax and then shall[must] be immediately discarded.

(3) If the wax pot becomes contaminated or debris is visible it shall be completely cleaned and disinfected through the following steps:[]

(11) Wax pots shall be completely cleaned and disinfected when the wax is contaminated or debris is visible through the following steps:[]

(a) Wax shall be emptied and disposed of properly;

(b) Pots shall be washed with detergent and rinsed;

(c) All pot surfaces shall be wiped or sprayed with EPA-registered disinfectant following manufacturer's guidelines for contact time;

(d) Pots shall be air dried or wiped dry with a clean paper towel; and

(e) New wax shall always be used and pots shall remain covered at all times. [and]

(4)[(4)] Paraffin wax shall be portioned out to prevent contamination between clients and disposed of immediately.

Section 10. General Cleaning and Disinfection.

(1)[(12)] Any item that may not be cleaned and disinfected is considered single use and shall be disposed of after each use. This includes items such as, but is not limited to,[] nail files or emery boards made of any material except metal or glass, all cotton, buffing blocks, pumice stones, wooden cuticle pushers, slipper shoes, toe separators, wooden spatulas, neck strips, and paper coverings.

(2) All shampoo bowls or similar items shall be cleaned after each use and disinfected at the end of each day.

(3) All nonporous items to be used on multiple clients shall be cleaned and disinfected after each use.[]

Section 6. Proper Protection of Neck.

(1) A shampoo apron, hair cloth, or similar article shall not be placed directly against the neck of the patron, and shall be kept from direct contact with the patron by means of a paper neck band or clean towel.

(2) A neck band of paper shall not be used more than once.

(3) A towel or cloth shall not be used more than once without proper laundering.[]

Section 11. Removal of Product from Multi-Use Containers. [7-

Use of Creams.]

(1) All products [A cream or other semi-solid substance shall be] removed from a multi-use [its] container such as a tub or tube, shall be done in a manner that prevents contamination of the remaining product within the container.[with a clean, sanitized spatula.]

(2) Products such as pomades, waxes, and gels shall be removed with either a single use spatula that is disposed of immediately after a single use or a disinfected multi use spatula. Fingers shall[may] not be used to remove product.

(3) Powders and lotions shall be dispensed from a shaker or pump ensuring that the licensee's or client's hands never touch the dispensing portions of the container.[A spatula made of a washable nonabsorbent material shall be sanitized before re-use.]

Section 12[8]. Special Solution Containers. Single use product containers shall be used whenever possible to prevent the contamination of unused solution. All leftover product shall be disposed of, not reused.[]

Section 9. Use of Powder. Powder shall be dispensed from a shaker or similar receptacle and shall be applied with a disposable puff, or cotton pledget, or other disposable applicator.[]

Section 13[10]. Walls and Floors. Walls, floors, and fixtures shall be kept in a safe manner[sanitary and clean] at all times. If any condition potentially places the consumer or the licensee at risk of harm, it shall be remedied immediately.

Section 14[11]. Trash Containers and Debris.

(1) All trash containers shall have solid sides and a liner shall be used. [a lid or cover, and a liner shall always be used. Lids shall close completely.]

(2) All hair and debris shall be swept up immediately following each client and placed in the closed trash container.

Section 15[12]. Proper Laundering Methods.

(1) All cloth towels, robes, and similar items shall be laundered in a washing machine with laundry detergent [and chlorine bleach] used according to the manufacturer's directions. [for sanitation purposes.]

(2) Laundry may be done through a commercial laundry service.

(3) A closed, dustproof cabinet shall be provided for clean towels and linen, and a closed, side vented hamper or receptacle shall be provided for all soiled towels and linens.

Section 16 [13.] Personal Hygiene.

(1) Every person licensed or permitted by the board shall thoroughly cleanse his or her hands with soap and water or an equally effective [alcohol-based] hand sanitizer [of at least seventy (70) percent alcohol] immediately before serving each patron.

(2) Hand sanitizer shall be made available for use by patrons at each nail station in the licensed facility.

(3) A cosmetology instrument or implement shall not be carried or stored in a pocket, belt, apron, or smock.

Section 17. Blood Exposure.

(1) If a licensee or client are injured during the service and blood is present, service shall[must] be stopped immediately.

(2) If possible the area shall[should] be washed under clean running water at a sink.

(3) If the injury is on the client, the licensee shall put on[should don] gloves and clean the area, then apply antibacterial ointment and offer a bandage to the client. The licensee shall[should] then remove gloves, wash his or her[their] own hands and re-apply gloves for the duration of the service.

(4) If the injury is on licensee, the licensee shall put on gloves [should be donned] and any blood on the workstation or client shall[should] be cleaned. The licensee shall[should] then remove gloves, wash the area, and apply antibiotic cream and a bandage to the area. The licensee shall[They should] then re-apply gloves, and properly disinfect the work surface and

implements prior to starting the service again.

(5) When service is complete, all disposable items shall be immediately thrown away and all non-porous items thoroughly cleaned and disinfected.

(6) Styptics to arrest bleeding shall be used only in liquid or powder form and shall be applied using new gauze, or cotton.

Section 18. Communicable Disease.

(1) ~~Licensees~~Licensee's shall not perform any service if they have been diagnosed with a communicable disease until cleared by a medical professional for return to work.

(2) ~~Licensees~~Any licensee with a respiratory illness, regardless of if they have been diagnosed, ~~shall~~should consider the use of a facemask to protect clients from the possibility of transmission.

(3) ~~Licensees~~Licensee's shall not perform a service on a client who has visible swelling, eruption, redness, bruising on skin, or rash in an area where a service is to be performed.

(4) Clients with a physician's note indicating they are not contagious, such as psoriasis or other non-communicable skin disorders, are an exception to this rule.

Section 19. Eyelash Services.

(1) Eyelash stands, holders, or pallets including tiles or stones, and trays ~~shall~~must be cleaned and disinfected before use with each client.

(2) Eyelash extensions ~~shall~~must be stored in a clean, closed container or in closed, original packaging. Eyelash extensions that are removed from the container or original packaging for a client's eyelash service and not used ~~shall~~must be disposed of and ~~shall~~must not be used for another client.

(3) When removing eyelashes from the container or package to portion out eyelashes for a service, a practitioner ~~shall~~must use disinfected scissors, blade, or other tool to snip a portion of a strip, or disinfected tweezers to portion out the lashes for each service.

(4) Any cutting implement used to cut the lashes in to sections, to render lash strips a one-time use, ~~shall~~must be disinfected and stored in covered containers.

(5) Tape used for taping back eye lid skin or lashes ~~shall not~~cannot be de-tacked on skin. De-tacking shall only be done on a clean towel.

(6) Any nozzle or dropper used for rinsing or flushing the eye during the service ~~shall not~~cannot come in direct contact with the eye or skin.

(7) Only medical grade adhesives intended for use on the human body ~~shall~~may be used.

Section 20. Esthetics.

(1) All esthetics facilities shall have a sharp's disposal container available for disposal of sharp items, such as lancets.

(2) A microdermabrasion or facial machine shall be:

(a) Cleaned and disinfected after each use by removing all movable parts;

(b) ~~Filled, circulated, cleaned, and disinfected~~(and: (a) Filling, circulating, cleaning, and disinfecting] with the use of hospital grade disinfectant or a ten (10) percent bleach solution that is circulated through the machine for the minimum time recommended by the manufacturer; and

(c) ~~Rinsed~~

(b) ~~Rinsing] and air ~~dried~~drying], or ~~wiped~~wiping] dry with a clean cloth or paper towel.~~

Section 21[44]. Prohibited Items. The following sanitation methods and cosmetology practices shall be prohibited:

(1) Methyl Methacrylate acid (MMA);

(2) Isobornyl Methacrylate (IBMA);

(3) Blades for cutting the skin including items such as~~but not limited to~~ credo blades, rasps, and graters for callous removal;

(4) UV light boxes or "Sterilizers";

(5) Roll on wax;

(6) Waxing of nasal hair;

(7) Any product banned by the FDA; and

(8) Use of any live animal ~~[Live fish, leeches, snails and other~~

~~living creatures for use]~~ in any cosmetic service.

Section 22. Autoclaves.

(1) Autoclaves used to sterilize shall be spore tested through an independent laboratory every thirty (30) days to ensure functionality.

(2) Laboratory results shall be kept onsite for twelve (12) months.

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BOARDS AND COMMISSIONS Kentucky Board of Cosmetology (As Amended at ARRS, May 12, 2020)

201 KAR 12:140. School equipment.

RELATES TO: KRS 317A.060, 317A.090

STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires the board to set standards by administrative regulation for licensed schools of cosmetology, esthetic practices, and nail technology to meet relating to quantity and quality of equipment, supplies, and furnishings. This administrative regulation establishes the necessary physical requirements for licensed schools.

Section 1. Equipment and Supplies.

(1) A licensed school of cosmetology, esthetic practices, and nail technology shall have all equipment and supplies needed to meet the curriculum outlined in 201 KAR 12:082, including at a minimum:

- (a) Shampoo bowls;
- (b) Pedicure equipment;
- (c) Hydraulic styling chairs;
- (d) Station mirrors;
- (e) Chemicals, cleansers, and emulsions;
- (f) Cutting and styling implements; and
- (g) Proper storage.

(2) A licensed school of esthetic practices shall have:

- (a) A private student or client changing area;
 - (b) A minimum of one (1) fully equipped facial machine in the esthetics area;
 - (c) A minimum of one (1) sink in the clinic area with hot and cold running water;
 - (d) A minimum of one (1) steamer for hot towels; and
 - (e) A Sharps container.
- (3) All equipment and supplies shall be available for student use and practice.

Section 2. Physical Characteristics.

(1) A licensed school shall be physically separated from any beauty salon or barber shop, or any other place of business.

(2) A licensed school shall maintain, at a minimum:

- (a) Thirty-six (36) square feet per student in the clinical area;
- (b) Eighteen (18) square feet per student in the mannequin or nail table area;
- (c) A reasonable amount of area allotted for training of students in all other areas;
- (d) A separate room for demonstration and study with all necessary charts and equipment to carry out the curriculum; and
- (e) Booths or partitions in the clinical area that permit observation of students.

(3) Each[All] licensed school shall[schools must] provide and maintain a biometric digital time keeping system to be used by all students and instructors as required by 201 KAR 12:082.

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BOARDS AND COMMISSIONS
Kentucky Board of Cosmetology
(As Amended at ARRS, May 12, 2020)

201 KAR 12:260. Fees.

RELATES TO: KRS 317A.050, 317A.062

STATUTORY AUTHORITY: KRS 317A.062

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.062 requires the board to promulgate administrative regulations establishing a reasonable schedule of fees and charges for examinations and the issuance, renewal, and restoration of licenses and permits. This administrative regulation establishes a fee schedule for applications, permits, and licenses issued by the board.

Section 1. The initial license fees shall be as follows:

- (1) Cosmetologist - fifty (50) dollars;
- (2) Nail technician - fifty (50) dollars;
- (3) Esthetician - fifty (50) dollars;
- (4) Blow drying services - fifty (50) dollars;
- (5) Cosmetology instructor - fifty (50) dollars;
- (6) Esthetic instructor - fifty (50) dollars;
- (7) Nail Technology instructor - fifty (50) dollars;
- (8) Beauty salon - \$100;
- (9) Nail salon - \$100;
- (10) Esthetic salon - \$100;
- (11) School - \$1,500;
- (12) School transfer of ownership - \$1,500;
- (13) Salon transfer of ownership - \$100;
- (14) Limited facility license[permit] for a limited beauty salon, threading facility, eyelash artistry facility, and makeup facility - \$100;
- (15) Threading permit - fifty (50) dollars;
- (16) Eyelash Artistry Permit - fifty (50) dollars; and
- (17) Makeup Artistry Permit - fifty (50) dollars.

Section 2. The renewal license fees shall be as follows:

- (1) Cosmetologist - fifty (50) dollars;
- (2) Nail technician - fifty (50) dollars;
- (3) Esthetician - fifty (50) dollars;
- (4) Blow drying services - fifty (50) dollars;
- (5) Cosmetology instructor - fifty (50) dollars;
- (6) Esthetic instructor - fifty (50) dollars;
- (7) Nail Technology instructor - fifty (50) dollars;
- (8) Beauty salon - \$100;
- (9) Nail salon - \$100;
- (10) Esthetic salon - \$100;
- (11) School - \$250;
- (12) Limited facility license[permit] for a limited beauty salon, threading facility, eyelash artistry facility, and makeup facility - \$100;
- (13) Threading permit - fifty (50) dollars;
- (14) Eyelash Artistry Permit - fifty (50) dollars; and
- (15) Makeup Artistry Permit - fifty (50) dollars.

Section 3. Applications for examination including retake applications shall be accompanied by a fee as follows:

- (1) Cosmetologist - seventy-five (75) dollars;
- (2) Nail technician - seventy-five (75) dollars;
- (3) Esthetician - seventy-five (75) dollars;
- (4) Blow drying services - seventy-five (75) dollars; and
- (5) Instructor - seventy-five (75) dollars.

Section 4. Miscellaneous fees shall be as follows:

- (1) Demonstration permit - fifty (50) dollars;
- (2) Certification for an out-of-state[of-a] license or school hours transfer - twenty-five (25) dollars;
- (3) Duplicate license - twenty-five (25) dollars;
- (4) Salon manager change - fifty (50) dollars;
- (5) School manager change - fifty (50) dollars~~[\$125]~~;
- (6) Enrollment correction fee, as established in 201 KAR 12:082, Section 24(2) - fifteen (15) dollars;

- (7) Out of state endorsement application fee - \$100;
- (8) Apprentice instructor - fifty (50) dollars;
- (9) Student enrollment permit - twenty-five (25) dollars;
- (10) Individual license restoration fee - fifty (50) dollars;
- (11) Salon license restoration fee, or limited facility license[permit] restoration fee for a limited beauty salon, threading facility, eyelash artistry facility, and makeup facility - \$100; and
- (12) School license restoration fee - \$500; and
- (13) School or Salon location change - \$100.

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BOARDS AND COMMISSIONS
Board of Nursing
(As Amended at ARRS, May 12, 2020)

201 KAR 20:600. Standards for training programs for licensed certified professional midwives.

RELATES TO: KRS ~~314.400 – 314.414~~314.404 – 314.416

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(1) requires[authorizes] the board to promulgate an administrative regulation to establish required standards for training programs for licensed certified professional midwives. This administrative regulation establishes the required standards for training programs for licensed certified professional midwives.

Section 1. Definition. “Preceptor” means a licensed certified professional midwife (LCPM), an APRN designated Certified Nurse Midwife, or a physician, who serves as a role model and mentor to assist in the development and validation of the competencies of a student.

Section 2. (1) A training program that prepares an individual to become a licensed certified professional midwife (LCPM) which is located in this state shall be accredited by the Midwifery Education Accreditation Council (MEAC).

(2) The board shall retain jurisdiction over accredited programs and may conduct a site visit or other investigation into any allegation that may constitute a violation of this administrative regulation and 201 KAR 20:610~~[these administrative regulations]~~. The board may also conduct a site visit when an accreditation visit is scheduled.

(3) The training program shall submit all correspondence and reports to and from MEAC to the board within thirty (30) days of submission or receipt.

Section ~~3.~~2. A training program that prepares an individual to become a LCPM which is located in this state shall meet the standards established by this administrative regulation.

Section ~~4.~~3. Program Administrator. (1)(a) There shall be a program administrator who is administratively responsible for overseeing the program.

(b) The program administrator shall be appointed by and be responsible to the governing institution.

(2) A program shall develop and implement a plan of organization and administration that clearly establishes the lines of authority, accountability, and responsibility for each program location.

(3) The program administrator shall have the following qualifications:

(a) A minimum of a master's degree from an accredited college or university;

(b) A minimum of the equivalent of two (2) years of full time

teaching experience in midwifery;

(c) Have at least two (2) years of experience in the independent practice of midwifery, nurse-midwifery, or obstetrics;

(d) Demonstrated experience or preparation in education that includes teaching adults, adult learning theory teaching methods, curriculum development, and curriculum evaluation; ~~[(A program administrator without previous program administrator experience shall have a mentor assigned by the governing institution and an educational development plan implemented. The mentor shall have documented experience in program administration.)]~~

(e) Have been the primary care giver for at least seventy-five (75) births including provision of prenatal, intrapartum, and postpartum care; and

(f) Hold a license as an LCPM.

(4) An APRN or physician may be appointed as a program administrator if they meet the requirements of this section other than holding a license as an LCPM if, in the opinion of the governing institution, the individual being considered has a sufficient understanding of the LCPM scope of practice.

(5) A program administrator without previous program administrator experience shall have a mentor assigned by the governing institution and an educational development plan implemented. The mentor shall have documented experience in program administration.

Section 5.[4.] Faculty.

(1) There shall be at least one (1) faculty member besides the program administrator.

(2) The faculty shall be adequate in number to implement the curriculum as determined by program outcomes, course objectives, the level of the student, the number of students and classes admitted annually, and the educational technology utilized.

(3) The faculty shall be approved by the administrator and shall include didactic and clinical faculty.

(4) Didactic faculty.

(a) Didactic faculty shall have a minimum of a baccalaureate degree from an accredited college or university.

(b) Didactic faculty licensed as an LCPM shall document a minimum of two (2) years full time or equivalent experience as an LCPM.

(c) Didactic faculty who hold a license other than as an LCPM shall document a minimum of two (2) years full time or equivalent experience in their profession.

(d) Didactic faculty shall document preparation in educational activities in the area of teaching and learning principles for adult education, including curriculum development and implementation. The preparation shall be acquired through planned faculty in-service learning activities, continuing education offerings, or academic courses.

(e) Didactic faculty hired without prior teaching experience shall have a mentor assigned and an educational development plan implemented.

(5) Clinical faculty and preceptors.

(a) Clinical faculty or a preceptor shall hold a current, unencumbered license as a certified professional midwife or related profession.

(b) Clinical faculty or a preceptor shall have evidence of clinical competencies related to midwifery.

(6) There shall be documentation of orientation to the course, program outcomes, student learning objectives, evaluation methods to be used by the faculty, and documented role expectations.

Section 6.[5.] Standards for Curriculum.

(1) Philosophy, mission, and outcomes.

(a) The philosophy, mission, and outcomes of the training program shall be clearly defined in writing by the faculty and shall be consistent with those of the governing institution.

(b) The program outcomes shall encompass The Midwives Alliance of North America Core Competencies, and the Standards and Qualifications for the Art and Practice of Midwifery of the Midwives Alliance of North America

and describe the expected competencies of the graduate.

(c) The program shall conduct an evaluation to validate that identified program outcomes have been achieved and provide evidence of improvement based on an analysis of those results.

(d) The training program shall include a minimum of 900 contact hours of didactic course work.

(2) Organization of the curriculum.

(a) There shall be a written plan, including supporting rationale, which describes the organization and development of the curriculum.

(b) The curriculum plan shall reflect the philosophy, mission, and outcomes of the program and prepare the student to meet the qualifications for certification by the North American Registry of Midwives.

(c) A course syllabus shall be developed for each course to include outcomes, planned instruction, learning activities, and method of evaluation.

1. Each course shall be implemented in accordance with the established course syllabus.

2. A copy of each course syllabus shall be on file in the program office and shall be available to the board upon request.

(d) The curriculum plan shall be logical and sequential, and shall demonstrate an increase in difficulty and complexity as the student progresses through the program.

(e) A course may be offered as a distance learning course. A distance learning course shall meet the same standards as established in this administrative regulation.

(f) The curriculum shall have written measurable program outcomes that reflect the role of the graduate.

(3) The curriculum shall require that the student hold a current American Heart Association Basic Life Support (BLS) certificate for health care providers and include instruction in neonatal resuscitation resulting in a Neonatal Resuscitation Program (NRP) certificate.

Section 7.[6.] Clinical Experience or/ Preceptorship.

(1) The training program shall include a clinical experience or/ preceptorship of at least two (2) years but no more than five (5) years and is equivalent to 1350 clinical contact hours. The training program shall maintain a log of clinical hours for each student.

(2) The clinical experience or/ preceptorship shall include:

(a) Serving as an active participant in attending twenty (20) births;

(b) Serving as the primary midwife, under supervision, in attending twenty (20) additional births, at least ten (10) of which shall be out of hospital births. A minimum of three (3) of the twenty (20) births attended as primary midwife under supervision shall be with women for whom the student has provided primary care during at least four (4) prenatal visits, births, newborn exams, and one (1) postpartum exam;

(c) Serving as the primary midwife, under supervision, in performing:

1. Seventy-five (75) prenatal exams, including at least twenty (20) initial history and physical exams;

2. Twenty (20) newborn exams; and

3. Forty (40) postpartum exams.

Section 8.[7.] Students.

(1) A student enrolled in the training program shall have a high school diploma or its equivalent.

(2) The training program shall maintain in the student's file evidence of compliance with the requirements in Section 6(3) of this administrative regulation, in Section 7 of this administrative regulation, and in subsection (1) of this section the above requirements in the student's file.

(3) Admission requirements shall be stated and published in the governing institution's publications.

(4) Program information communicated by the training program shall be accurate, complete, consistent, and publicly available.

Section 9.[8.] Student Policies.

(1) Written LCPM student policies shall be accurate, clear, and

consistently applied.

(2) Upon admission to the training program, each student shall be advised in electronic or written format of policies pertaining to:

- (a) Evaluation methods to include the grading system;
- (b) Tuition, fees, and expenses associated with the training program and refund policies;
- (c) Availability of counseling resources;
- (d) Health requirements and other standards as required for the protection of student health;
- (e) Grievance procedures;
- (f) Financial aid information;
- (g) Student responsibilities; and
- (h) A plan for emergency care on campus or in clinical settings.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "The Midwives Alliance of North America Core Competencies", (December 2014); and

(b) "Standards and Qualifications for the Art and Practice of Midwifery", Midwives Alliance of North America, (October 2005).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 am – 4:30 p.m.

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BOARDS AND COMMISSIONS

Board of Nursing

(As Amended at ARRS, May 12, 2020)

201 KAR 20:610. Approval process for training programs for licensed certified professional midwives.

RELATES TO: KRS ~~314.400 – 314.414~~~~[314.404 – 314.416]~~

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(1) ~~requires~~~~[authorizes]~~ the board to promulgate an administrative regulation to establish required standards for training programs for licensed certified professional midwives. **This administrative regulation establishes the approval process for training programs for licensed certified professional midwives.**

Section 1. Definitions.

(1) "Board" means the Kentucky Board of Nursing.

(2) ~~["Preceptor" means a licensed certified professional midwife (LCPM), APRN designated Certified Nurse Midwife, or physician, who serves as a role model and mentor to assist in the development and validation of the competencies of a student~~

~~—(3)]~~ "Program for licensed certified professional midwives" means the educational unit that prepares a person for licensure as a certified professional midwife.

Section 2. Establishment of a Training Programs for Licensed Certified Professional Midwives.

(1) The governing institution that establishes and conducts a training programs for licensed certified professional midwives shall hold accreditation as a postsecondary institution, college, or university by an accrediting body recognized by the U.S. Department of Education.

(2) The governing institution shall assume full legal responsibility for the overall conduct of the training program for licensed certified professional midwives.

(3) The governing institution may receive consultation from the

board prior to establishing a training program.

Section 3. Letter of Intent.

(1) The governing institution shall submit to the board a letter of intent to establish a training program for licensed certified professional midwives.

(2) The letter of intent shall be completed under the direction or consultation of a program administrator who shall have the following qualifications:

(a) A minimum of a master's or higher degree from an accredited college or university;

(b) A minimum of at least two (2) years of experience in the independent practice of midwifery, nurse-midwifery, or obstetrics in the past five (5) years;

(c) Have been the primary care giver for at least **seventy-five (75)** births including provision of prenatal, intrapartum, and postpartum care;

(d) Hold a license as:

- 1. An LCPM
- 2. An APRN designated Certified Nurse Midwife; or
- 3. A physician; and

(e) Demonstrated experience or preparation in education that includes teaching adults, adult learning theory teaching methods, curriculum development, and curriculum evaluation. A program administrator without previous program administrator experience shall have a mentor assigned by the governing institution and an educational development plan implemented. The mentor shall have documented experience in program administration.

(3) The letter of intent shall include:

(a) Approval from the governing body of the institution proposing the training program for licensed certified professional midwives or other empowered approval bodies as applicable;

(b) The results of a feasibility study that includes the following information related to the need for a training program for licensed certified professional midwives:

1. Projected workforce demand; and

2. A description of the applicant pool that is being targeted and how this population will be reached;

(c) Evidence of support from the community of interest including how support for the creation of and training for students enrolled in a program for licensed certified professional midwives will occur. This documentation shall include evidence of the community of interest's intention to contribute to the achievement of the clinical objectives of the program;

(d) General information about the governing institution including the mission, ownership, method of financing, accreditation, enrollment, area served, and institutional faculty qualifications and resources;

(e) Admission of students, and projected graduation of the first class;

(f) Evidence of a sound financial base and demonstrated financial stability available for planning, implementing, and maintaining the training programs for licensed certified professional midwives;

(g) A copy of the curriculum vitae of the program administrator involved in the planning; and

(h) The maximum number of new students that the program is able to enroll in one (1) academic year. This number shall be referred to as the program's enrollment baseline.

(4)(a) If concerns are raised about the need for the program or about the ability of the program to obtain appropriate clinical sites, a hearing shall be held before the board's education committee to act upon the letter of intent.

(b) At the conclusion of the hearing, the committee shall recommend to the board whether or not to approve the letter of intent.

(c) If the letter of intent is approved by the board, the governing institution shall be notified in writing that it may move to the proposal phase. The proposal shall be submitted within one (1) year of the date of the approval of the letter of intent or the letter of intent shall expire.

(5) The letter of intent shall be accompanied by a fee of \$1,000 which is non-refundable.

(6) When the letter of intent is submitted to the board, the institution shall begin the accreditation process with the Midwifery Education Accreditation Council (MEAC) and the Council on Postsecondary Education, if applicable.

(7) All communication between the certified professional midwives training program and MEAC shall be forwarded to the board by the program administrator at the time of receipt from or submission to the accrediting body, but no later than thirty (30) days of receipt by the program.

(8) The program administrator shall notify the board of pending site visits by MEAC and shall provide to the board copies of any formal communication submitted to MEAC at the time of submission.

Section 4. Proposal Phase.

(1) A completed program proposal shall be submitted to the board by the governing institution for approval.

(2) The program shall not be announced, advertised, or students admitted to the training program for licensed certified professional midwives until the proposal has been approved and developmental status has been granted by the board.

(3) The program proposal shall include:

(a) Philosophy, mission, and learning outcomes of the governing institution;

(b) An organizational chart of the governing institution and written plan, which describes the organization of the training program and its relationship to the institution;

(c) Proposed philosophy, mission, and learning outcomes for the proposed program;

(d) Curriculum design including proposed courses, description, sequence, and credit hours delineating those credits assigned to theory and clinical;

(e) Student recruitment plan and the enrollment baseline;

(f) A five (5) year plan for recruiting and retaining qualified faculty;

(g) A proposed job description for the program administrator reflecting authority and responsibility;

(h) A description of faculty offices, classrooms, clinical skills laboratory, library facilities, conference rooms, and learning resources;

(i) A description of support services for students, to include provision of health services or evidence of an emergency plan for care, academic advisement, student services, mechanism for obtaining learning resources, and financial aid;

(j) Availability and willingness of the community, including accredited agencies, to provide clinical experiences;

(k) Policies and procedures for student admission to program for licensed certified professional midwives and progression;

(l) Availability of clerical assistance and support staff;

(m) A general plan for systematic review of the program that results in continuing improvement; and

(n) A description of financial resources to support the program including a budget for the first three (3) years with projected revenues and expenditures and the amount of resources going to institutions or organizations for contractual or support services.

(4) The training program may meet with the board staff to clarify, verify, and amplify materials included in the program proposal.

(5) The governing institution shall be notified in writing of action taken by the board on the proposal.

(a) If the board determines that all requirements have been met, the program shall be granted developmental status.

(b) The board, in collaboration with the program, shall determine an opening date.

Section 5. Developmental Status.

(1) Students may be admitted after developmental status is granted.

(2) Employment of program administrator and faculty.

(a) The program administrator shall be the first faculty member employed, and shall have assumed full time responsibilities for the program prior to opening.

(b) The faculty shall be employed in sufficient numbers to

prepare for the development of the curriculum component of the program.

(3) Any deviation from the initial curriculum plan approved within the proposal shall be approved by the board before the first class begins course requirements.

(4) Any written contracts for use of clinical facilities shall be executed and available for review by the board prior to admission to the certified professional midwife program.

(5) The certified professional midwife program shall submit semi-annual progress and evaluation reports or other reports as requested by the board to demonstrate implementation of the approved proposal until the first class graduates.

(6) Site visits shall be conducted by the board as necessary.

(7) Developmental status may be withdrawn if:

(a) A class is not enrolled within eighteen (18) months of the date the board granted developmental status; or

(b) The governing institution fails to submit board required reports within the designated time period.

(8) The governing institution shall be notified in writing of the intent to withdraw developmental status. The governing institution may request reconsideration by the board. The request shall be in writing and sent no more than thirty (30) days from the date of the notification.

Section 6. Initial Status and Program Approval.

(1) The status of the program shall move automatically from developmental status to initial status upon admission of the first class.

(2) It shall be the responsibility of the certified professional midwife program to notify the board of the admission of the first class.

(3) The program shall notify the board in writing thirty (30) days prior to the graduation of the first class.

(4) The decision to grant program approval by the board shall be based on review of the following:

(a) Achievement and continued approval by a MEAC and

(b) Reports of site visits conducted by a board representative to evaluate program compliance with **201 KAR 20:600 and this administrative regulation[administrative regulations]**.

(5) The board may grant program approval for a period of time not to exceed the approval period granted by MEAC.

(6) If program approval is denied, the applicant may request a hearing pursuant to KRS Chapter 13B.

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BOARDS AND COMMISSIONS

Board of Nursing

(As Amended at ARRS, May 12, 2020)

201 KAR 20:620. Licensing requirements for licensed certified professional midwives.

RELATES TO: KRS **194.540, 314.400 – 314.414, 620.020**~~[314.404 – 314.416]~~

STATUTORY AUTHORITY: KRS 314.131(1), 314.404
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(2) **requires[authorizes]** the board to promulgate an administrative regulation to establish licensing requirements for licensed certified professional midwives. KRS 314.404(5) **requires[authorizes]** the board to promulgate an administrative regulation to establish fees. **This administrative regulation establishes the fees and requirements for initial licensure, renewal, and reinstatement for licensed certified professional midwives.**

Section 1. Fees.

(1) The fee for initial licensure shall be ~~[one-thousand dollars (\$1,000)].~~

(2) The fee for licensure renewal shall be ~~[one-thousand dollars (\$1,000)].~~

(3) The fee for licensure reinstatement shall be ~~[one-thousand dollars (\$1,000)].~~

Section 2. Initial Licensure. An applicant for initial licensure as a licensed certified professional midwife (LCPM) shall complete the Certified Professional Midwife Application for Licensure and pay the fee for initial licensure as established in Section 1 of this administrative regulation.

Section 3. Educational Requirements.

(1) An applicant for initial licensure as an LCPM shall provide evidence that the program from which they graduated is accredited by the Midwifery Education Accreditation Council (MEAC).

(2) An applicant shall also provide a copy of his or her official transcript.

(3)(a) If the applicant was certified by the North American Registry of Midwives (NARM) before January 1, 2020 through an educational pathway not accredited by MEAC, the applicant shall provide evidence of having earned the Midwifery Bridge Certificate issued by NARM. This shall be in lieu of an official transcript.

(b) If the applicant is licensed in another state that does not require an accredited education, the applicant shall provide evidence of having earned the Midwifery Bridge Certificate issued by NARM and proof of licensure in the other state.

(4) An applicant shall provide evidence of current American Heart Association Basic Life Support (BLS) for health care providers and Neonatal Resuscitation Program (NRP) certifications.

(5) An applicant shall complete a pediatric abusive head trauma course described in KRS 620.020(8) and a domestic violence course described in KRS 194A.540 and provide evidence to the board at the time of application.

Section 4. Competency Validation.

An applicant shall provide evidence of having passed the North American Registry of Midwives (NARM) Examination and been granted certification by NARM.

Section 5. Criminal Record Check.

(1) Within six (6) months of the date of the application, an applicant shall request a criminal record check by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card and including any required fee to the KSP and the FBI.

(2) An applicant shall provide a certified or attested copy of the court record of any misdemeanor or felony conviction and a letter of explanation that addresses each conviction at the time of application.

Section 6. Action in Another Jurisdiction.

An applicant shall provide a certified copy of any disciplinary action taken on any professional or business license in another jurisdiction and a letter of explanation at the time of application.

Section 7. License.

(1) An applicant who meets the requirements of KRS 314.404 and Sections 1 through 6 of this administrative regulation shall be issued a license to practice as an LCPM.

(2) The license shall be issued for one (1) year from the date of initial licensure and may be renewed pursuant to Section 8 of this administrative regulation.

Section 8. Renewal.

(1) A license to practice as an LCPM may be renewed by completing the Certified Professional Midwife Licensure Renewal Application and paying the fee established in Section 1 of this administrative regulation.

(2) The LCPM shall provide evidence of current certification with NARM at the time of renewal.

(3) The LCPM shall provide evidence of current BLS and NRP certifications at the time of renewal.

(4) Upon approval of the Certified Professional Midwife Renewal Application, the license shall be renewed for one (1) year.

Section 9. Reinstatement.

(1) If the LCPM license has lapsed, an applicant may file the Certified Professional Midwife Application for Licensure to request reinstatement and pay the fee established in Section 1 of this administrative regulation.

(2) The LCPM shall provide evidence of current certification with NARM at the time of application for reinstatement.

(3) The LCPM shall provide evidence of current BLS and NRP certifications at the time of application for reinstatement.

(4) An applicant for reinstatement shall also meet the requirements of Sections 5 and 6 of this administrative regulation.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Certified Professional Midwife Application for Licensure", 1/2020~~], Kentucky Board of Nursing~~]; and

(b) "Certified Professional Midwife Licensure Renewal Application", 1/2020~~], Kentucky Board of Nursing~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m.

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BOARDS AND COMMISSIONS

Board of Nursing

(As Amended at ARRS, May 12, 2020)

201 KAR 20:630. Disciplinary actions for licensed certified professional midwives.

RELATES TO: KRS 314.089, 314.091, 314.400 – 314.414, 314.991, 335B.020[314.404 – 314.416]

STATUTORY AUTHORITY: KRS 314.131(1), 314.404
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(4) requires[authorizes] the board to promulgate an administrative regulation to establish provisions for disciplinary actions for licensed certified professional midwives. This administrative regulation establishes conditions for disciplinary action, permits a penalty in addition to other disciplinary actions, and provides an appeals process.

Section 1. The Board of Nursing may reprimand, deny, limit, revoke, probate, or suspend the license of/shall have the authority to discipline] an LCPM upon proof that the person:

(1) Has obtained a license by means of fraud, misrepresentation, or concealment of material facts, including making a false statement on an application or any other document required by the board for licensure;

(2) Has engaged in unprofessional conduct;

(3) Has been convicted of a felony;

(4) Has been convicted of a misdemeanor that meets the provisions of KRS 335B.020;

(5) Has performed an act that exceeds the scope of practice pursuant to KRS 314.400 to 314.414 and 201 KAR 20:600 to 201 KAR 20:690[granted-by-law];

(6) Has had a license revoked, suspended, denied, or otherwise disciplined in any other territory or jurisdiction of the United States;

(7) Is unfit or incompetent to practice midwifery by reason of

negligence or other causes, including ~~[but not limited to]~~ being unable to practice midwifery with reasonable skill or safety;

(8) Has misused or appropriated any drugs placed in the custody of the midwife for the use of others;

(9) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records such as patient records, lab reports, and newborn records;

(10) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property;

(11) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law such as pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Pub.L. No. 104-191, 110 Stat.1936; or

(12) Has violated 201 KAR 20:600 to 201 KAR 20:690~~[any administrative regulation promulgated by the board]~~ or any lawful order or directive previously entered by the board.

Section 2. The Board of Nursing shall follow the procedures established in and have the authority established by KRS 314.091~~(2) through (6) and (8)~~, 201 KAR 20:161, and 201 KAR 20:162 for management and resolution of complaints filed against an LCPM.

Section 3. In addition to the provisions of Section 2 of this administrative regulation, the Board of Nursing may impose, pursuant to KRS 314.991(3), a civil penalty of up to \$10,000.

Section 4. Miscellaneous Requirements.

(1) An LCPM shall maintain a current mailing address with the board and notify the board in writing of a change of mailing address.

(2)(a) Holding a license shall constitute consent by the LCPM to service of notices or orders of the board. Notices and orders shall be sent to the mailing address on file with the board.

(b) Any notice or order of the board mailed or delivered to the mailing address on file with the board shall constitute valid service of the notice or order.

(3)(a) An LCPM shall, within ninety (90) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony conviction in this or any other jurisdiction.

(b) Upon learning of any failure to notify the board pursuant to this subsection, the board shall initiate an action for immediate temporary suspension until the person submits the required notification.

(4) An LCPM shall notify the board in writing within thirty (30) days if any professional or business license that is issued to the person by any agency of the commonwealth or any other jurisdiction:

(a) Is surrendered or terminated under threat of disciplinary action;

(b) Is refused, limited, suspended, or revoked; or

(c) If renewal or continuance is denied.

(5) If the board has reasonable cause to believe that an LCPM is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it shall require the person to submit to a substance use disorder evaluation or a mental or physical examination by a practitioner it designates.

(a) Holding a license shall constitute:

1. Consent by the LCPM to a substance use disorder evaluation, mental examination, or physical examination if directed in writing by the board. The direction to submit to an evaluation or examination shall contain the basis for the board's concern that the LCPM is unable to practice safely and effectively; and

2. Waiver of objections to the admissibility of the examining practitioner's testimony or examination reports on the grounds of privileged communication.

(b) The LCPM shall bear the cost of substance use disorder evaluation, mental examination, or physical examination ordered by the board.

(c) Upon failure of the LCPM to submit to a substance use disorder evaluation, mental examination, or physical examination

ordered by the board, unless due to circumstances beyond the person's control, the board shall initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny an application until the person submits to the required examination.

(d) If a substance use disorder evaluation, mental examination, or physical examination pursuant to this subsection results in a finding that indicates that the LCPM is unable to practice with reasonable skill and safety or has abused alcohol or drugs, the LCPM shall be subject to disciplinary procedures as established in this administrative regulation.

Section 5. Due process procedures, including appeal, pertaining to this administrative regulation shall be conducted in accordance with KRS Chapter 13B.

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BOARDS AND COMMISSIONS

Board of Nursing

(As Amended at ARRS, May 12, 2020)

201 KAR 20:640. Requirements for informed consent for licensed certified professional midwives.

RELATES TO: KRS ~~314.400 – 314.414~~314.404 – 314.416

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(6) requires ~~[authorizes]~~ the board to promulgate an administrative regulation to establish requirements for informed consent by individuals receiving services from a licensed certified professional midwife. This administrative regulation establishes requirements for informed consent for licensed certified professional midwives.

Section 1. (1) An LCPM shall obtain written informed consent from the individual receiving services.

(2) The LCPM shall maintain a copy of the informed consent document in the individual's records.

(3) The informed consent document shall include:

(a) A description of the LCPM's education and credentials;

(b) A description of the LCPM's statutory scope of practice, including a summary of the LCPM's limitations of skills and practices;

(c) Instructions for obtaining a copy of ~~[the administrative regulations]~~ 201 KAR 20:600 to 201 KAR 20:690~~[-690]~~;

(d) Instructions for filing a complaint with the board of nursing;

(e) A summary of a written protocol for emergencies, including transfer to a higher level of care;

(f) A description of the procedures, benefits, and risks of birth in the client's chosen environment, primarily those conditions that may arise during delivery;

(g) Disclosure of professional liability insurance held by the LCPM;

(h) The financial responsibility of the client;

(i) A summary of the requirements for consultation, referral, or transfer of care established by 201 KAR 20:670 and 201 KAR 20:690; and

(j) Procedures established by the LCPM for consultation, collaboration, referral, or transfer of care to a physician or other appropriate healthcare provider.

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BOARDS AND COMMISSIONS
Board of Nursing
(As Amended at ARRS, May 12, 2020)

201 KAR 20:650. Licensed certified professional midwives permitted medical tests and formulary.

RELATES TO: KRS ~~314.400 – 314.414~~~~[314.404 – 314.416]~~

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(7) requires~~[authorizes]~~ the board to promulgate an administrative regulation to establish a list of medical tests that a licensed certified professional midwife may order when providing certified professional midwifery services that is limited to only those tests that are indicated and approved for the safe conduct of pregnancy, labor or birth, and care of a client and not intended for the diagnosis or management of any acute condition unrelated to pregnancy. **This administrative regulation establishes the medical tests and formulary for licensed certified professional midwives.**

Section 1. An LCPM may independently order the following medical tests:

- (1) Complete blood count (CBC);
- (2) Blood type, Rh, and antibody screen;
- (3) Screening for gestational diabetes;
- (4) Hepatitis B and C panels for immunity or infection;
- (5) HIV test;
- (6) HPV test;
- (7) Pap smear;
- (8) Screen tests for syphilis, chlamydia, gonorrhea, and herpes;
- (9) Rubella titers;
- (10) Urine or serum HCG;
- (11) Urinalysis;
- (12) Urine culture including Group B strep;
- (13) Vaginal culture for Group B strep;
- (14) Varicella titers;
- (15) Ultrasound for fetal viability, confirmation of singleton intrauterine pregnancy, gestational age, fetal position, placental localization, anatomy scan, amniotic fluid index, or nuchal translucency;
- (16) Standard state newborn screening for metabolic disorders;
- (17) Newborn hearing screening;
- (18) Critical congenital heart disease screening (pulse oximetry);
- (19) Maternal prenatal genetic screening for errors of metabolism;
- (20) Hemoglobin A1C;
- (21) Standard screening tests for fetal genetic abnormalities including Quad Screen and cell-free DNA testing;
- (22) TSH screening;
- (23) Complete Metabolic Panel (CMP); and
- (24) Non-stress tests.**

Section 2. An LCPM may order any other test which is **determined as**~~[deemed]~~ necessary after consultation with a physician or other appropriate licensed healthcare provider.

Section 3. (1) An LCPM may obtain, transport, and administer the following legend medications:

- (a) Vitamin K;
- (b) Rho D immune globulin;
- (c) Erythromycin ophthalmic ointment USP, **five-tenths** (0.5~~[%]~~) **percent**;
- (d) Oxygen;
- (e) Hepatitis B vaccine;
- (f) Antibiotics which shall be administered pursuant to United States Centers for Disease Control (CDC) Guidelines for Prophylaxis:

1. Penicillin;
2. Ampicillin;
3. Cefazolin;
4. Clindamycin; and
5. Vancomycin;
- (g) Topical anesthetics:
 1. Procaine HCl;
 2. Novacaine;
 3. Benzocaine;
 4. Cetacaine; and
 5. Generic equivalents;
- (h) Lidocaine, **one (1) percent**~~[1%]~~ up to **twenty (20)** milliliters per patient;
- (i) **Lidocaine, two (2) percent**~~[2%]~~ **may be obtained by a LCPM only if in order that it may be compounded to one (1) percent**~~[1%]~~ **if Lidocaine one (1) percent**~~[1%]~~ **is not available.**
- (j) Epinephrine;
- (k) Glucose gel to be administered orally for neonatal hypoglycemia;
- (l) Normal saline; and
- (m) Medical supplies needed to administer the medications listed in this administrative regulation.
- (2)(a) An LCPM shall obtain and transport for emergencies Oxytocin (Pitocin) for prevention of postpartum hemorrhage and Lactated Ringer's or Normal Saline for intravenous infusion.
- (b) The LCPM shall obtain and transport at least one **(1)** of the following to be used in the event of postpartum hemorrhage and if Oxytocin is not successful:
 1. Methylergonovine (Methergine);
 2. Hemabate; or
 3. Misoprostal (Cytotec).

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BOARDS AND COMMISSIONS
Board of Nursing
(As Amended at ARRS, May 12, 2020)

201 KAR 20:660. Licensed certified professional midwives duty to report.

RELATES TO: KRS ~~213.046, Chapter 209A, 314.400 – 314.414~~~~[314.404 – 314.416]~~

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(10) requires~~[authorizes]~~ the board to promulgate an administrative regulation to require licensed certified professional midwives to report to the board annually as specified by the board information regarding cases in which the licensed certified professional midwife provided services when the intended place of birth at the onset of care was in an out-of-hospital setting. KRS 314.404(11) requires~~[authorizes]~~ the board to promulgate an administrative regulation to require licensed certified professional midwives to report to the board, within thirty (30) days of the occurrence, a case of newborn or maternal death attended by a licensed certified professional midwife at the discovery of death. **This administrative regulation establishes reporting requirements for licensed certified professional midwives and for the review of those reports.**

Section 1. Pursuant to KRS 314.404(11), within thirty (30) days of **the occurrence of** a case of newborn or maternal death, the attending LCPM shall report the occurrence to the Board of Nursing on LCPM Incident Form.

Section 2. Pursuant to KRS 314.404(10), an LCPM shall report

the following information to the Board of Nursing on or before September 1 of each year for the period July 1 through June 30 preceding:

- (1) The total number of clients served;
- (2) The number of live births;
- (3) The number of cases of fetal demise, newborn deaths, and maternal deaths;
- (4) The number, reason for, and outcome of each referral, transfer, or transport of a client in the antepartum, intrapartum, or immediate postpartum periods;
- (5) A brief description of any complications resulting in the morbidity or mortality of a mother or a newborn for the first six (6) weeks; and
- (6) The planned location of the delivery and the actual location of the delivery if it is different.

Section 3. The LCPM Advisory Council shall review all reports.

Section 4. (1) The LCPM shall comply with the requirements of KRS 213.046 regarding the reporting of birth.

(2) The LCPM shall comply with the requirements of KRS Chapter 209A regarding reporting of suspected domestic violence.

Section 5. Incorporation by Reference.

(1) "LCPM Incident Form", 1/2020~~], Kentucky Board of Nursing~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m.

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BOARDS AND COMMISSIONS **Board of Nursing** **(As Amended at ARRS, May 12, 2020)**

201 KAR 20:670. Licensed certified professional midwives consultation, collaboration, and referral provisions.

RELATES TO: KRS ~~314.400 – 314.414~~[314.404 – 314.416]

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(12) requires[authorizes] the board to promulgate an administrative regulation to define a list of conditions requiring collaboration, consultation, or referral of a client to a physician or other appropriate licensed health care provider, and the process for such collaboration, consultation, or referral. This administrative regulation establishes the process for and the list of conditions requiring collaboration, consultation, and referral.

Section 1. (1) Consultation does not require an in-person visit. It may include a discussion by the LCPM and an appropriate healthcare provider by telephone or other appropriate electronic communication.

(2) The consultant may recommend further evaluation which may be either in-person, by telehealth, or a records review.

(3) It is the responsibility of the LCPM to initiate a consultation and to communicate clearly to the consultant that the LCPM is seeking a consultation.

(4) A consultation may involve the consultant providing advice and information, providing care to the client or newborn, or prescribing treatment or medication for the client or newborn.

(5) It is the responsibility of the LCPM to provide all relevant client records to the consultant, including a written summary of the client's history and presenting problem, as appropriate.

(6) Consultation shall be fully documented by the LCPM in the client's record, including the consultant's name, date of service, and the consultant's findings, opinions, and recommendations. The LCPM shall discuss the consultant's recommendations with the client.

(7) After consultation and with the informed consent of the client as required by 201 KAR 20:640, care of the client and responsibility for decision making either:

- (a) Continues with the LCPM;
- (b) Is shared in collaboration by the LCPM and an appropriate licensed healthcare provider;
- (c) Is referred completely to an appropriate licensed healthcare provider; or
- (d) Is transferred to a licensed healthcare facility providing a higher level of care pursuant to 201 KAR 20:690.

(8) Referral or collaboration shall occur only after dialogue and agreement among the client, the LCPM, and the consultant.

(9) The LCPM shall ensure that the client can understand each provider's role and is able to identify which healthcare provider is responsible for various aspects of the client's[their] care.

(10) Collaboration shall be documented by the LCPM in the client's record, including the name of the collaborating provider and the conditions or symptoms the collaborating provider is managing.

(11) The LCPM shall maintain communication with the collaborating provider to the extent necessary to coordinate client care.

(12) If the condition or symptom requiring collaboration is resolved as mutually agreed upon by the LCPM and the collaborating provider, the LCPM may resume sole management of the client's care if appropriate, and document the decision in the client's record.

(13) Discussion with the client regarding the indications for complete referral of care shall[should] take place in a timely manner following the decision for referral. If[When] possible, this discussion shall occur in person and be documented in the client's record.

(14) It is the responsibility of the LCPM to provide all relevant client records to appropriate providers or facilities, including a written summary of the client's history and presenting problem, as appropriate.

(15) If the condition or symptom requiring referral of care is resolved as mutually agreed upon by the LCPM and other participating providers, the LCPM may resume primary management or enter into a collaboration of care if appropriate, and document the decision in the client's record.

Section 2. (1) If, on initial or subsequent assessment, one (1) of the conditions listed in this subsection exists, the LCPM shall consult with a physician or other appropriate licensed healthcare provider and shall mutually determine if[whether] collaboration or referral is appropriate and shall document that recommendation in the client record:

- (a) Complete placenta previa;
- (b) Partial placenta previa persisting after thirty-two (32) weeks;
- (c) HIV infection;
- (d) Cardiovascular disease, including hypertension;
- (e) Severe psychiatric illness that may result in bodily harm to self or others;
- (f) History of cervical incompetence;
- (g) Pre-eclampsia or eclampsia;
- (h) Intrauterine growth restriction, oligohydramnios or polyhydramnios in the current pregnancy;
- (i) Known potentially serious anatomic fetal abnormalities;
- (j) Any type of diabetes not controlled by diet;
- (k) Substance use disorder with current or recent use; or
- (l) Any other condition or symptom which may[could] threaten the life of the client or fetus, as assessed by an LCPM exercising reasonable skill and knowledge.

(2) If a client with a condition listed in subsection (1) of this section declines to accept a medically indicated consultation, collaboration, or referral, the licensed certified professional midwife shall document the refusal in writing and shall transition the client

to an appropriate higher level of care.

(3) If the condition mandating referral occurs during labor or delivery or the client is otherwise acutely in jeopardy but refuses the referral, the LCPM shall call 911 and provide care until another appropriate licensed healthcare provider assumes care.

Section 3. (1) If, on initial or subsequent assessment, one (1) of the following conditions exists, the LCPM shall consult with a physician or other appropriate licensed healthcare provider to mutually determine if[whether] collaboration or referral is necessary and shall document the recommendation in the client record:

(a) Prior Cesarean section or other surgery resulting in a uterine scar;

(b) Multifetal gestation;

(c) Non-cephalic presentation after thirty-six (36) weeks gestation;

(d) History of severe shoulder dystocia as documented by objective findings; or

(e) Gestational age greater than forty-two (42) weeks.

(2) An individual with a condition listed in subsection (1) of this section may give informed refusal to a consultation or to the consultant's recommendation. Prior to giving informed refusal, the LCPM shall recommend that the individual discuss the condition and the risks involved with a physician or other appropriate licensed healthcare provider. If the client continues to refuse the consultation, collaboration, or referral, the LCPM shall document in the client's record that the client[she] was informed of the condition requiring consultation, collaboration, or referral and the possible consequences. The client shall complete the Informed Refusal Form. The LCPM may continue to assume primary management of the client unless and until the client subsequently consents to the collaborative care or referral.

Section 4. (1) If, on initial or subsequent assessment, one (1) of the following conditions exists, the LCPM shall recommend consultation, collaboration, or referral with a physician or other appropriate licensed healthcare provider:

(a) Acute or chronic bacterial or fungal infection;

(b) Liver or kidney disease;

(c) Endocrinologic abnormalities;

(d) Hematologic abnormalities other than physiologic anemia of pregnancy;

(e) History of impaired glucose tolerance, history of diabetes satisfactorily controlled by diet and lifestyle changes alone, abnormal blood sugar or glucose tolerance test, or history of gestational diabetes;

(f) Substance use disorder, in remission;

(g) Current asthma or other significant pulmonary disease;

(h) Abnormality in a screening test indicative of possible genital tract malignancy or pre-malignant condition during the pregnancy;

(i) Seizure disorder or other significant neurologic disease;

(j) Abnormal vaginal bleeding during pregnancy other than first trimester bleeding;

(k) History of invasive malignancy;

(l) History of severe and persistent mental illness;

(m) History of prior intrauterine fetal demise or neonatal death;

(n) History of preterm birth; or

(o) Any other condition or symptom which could adversely affect the client or the fetus as assessed by an LCPM exercising reasonable skill and knowledge.

(2) If the client refuses the recommended consultation, collaboration, or referral pursuant to subsection (1) of this section, the LCPM shall document the refusal in the client's record and may continue to assume primary management of the client.

Section 5. Incorporation by Reference.

(1) "Informed Refusal Form", 1/2020~~[, Kentucky Board of Nursing]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m.

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BOARDS AND COMMISSION

Board of Nursing

(As Amended at ARRS, May 12, 2020)

201 KAR 20:680. Licensed certified professional midwives client records.

RELATES TO: KRS ~~314.400 – 314.414~~~~[314.404 – 314.416]~~

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(9) requires[authorizes] the board to promulgate an administrative regulation to further regulate, as necessary, the provision of certified professional midwifery services. This administrative regulation establishes requirements for recordkeeping by licensed certified professional midwives.

Section 1. (1) The Licensed Certified Professional Midwives (LCPM) shall maintain a record for each client. The record shall be complete and accurate. It shall document:

(a) The client's history;

(b) Physical examinations;

(c) Laboratory test results;

(d) Medications administered;

(e) Antepartum visits;

(f) Consultations, collaborations, and referrals;

(g) Labor and delivery;

(h) Postpartum visits; and

(i) Neonatal evaluations.

(2) The LCPM shall comply with all state and federal laws and regulations regarding the confidentiality [and retention] of the client's records such as pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Pub.L. No. 104-191, 110 Stat. 1936.

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BOARDS AND COMMISSIONS

Board of Nursing

(As Amended at ARRS, May 12, 2020)

201 KAR 20:690. Licensed certified professional midwives transfer guidelines.

RELATES TO: KRS ~~314.400 – 314.414~~~~[314.404 – 314.416]~~

STATUTORY AUTHORITY: KRS 314.131(1), 314.404, 314.414

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(3) requires [authorizes] the board to promulgate an administrative regulation to establish statewide requirements for licensed certified professional midwives and hospitals regarding the transfer of care from a licensed certified professional midwife to a hospital. KRS 314.414 authorizes the board to promulgate administrative regulations to implement the requirements developed by the transfer guidelines work group. This administrative regulation establishes requirements for licensed certified professional midwives regarding the transfer of care.

Section 1. (1) In the prenatal period, the LCPM shall provide information to the client about hospital care and procedures that may be necessary. The LCPM shall document that an emergency transfer plan has been developed with the client for hospital transfer should the need arise.

(2) The LCPM shall assess the status of the client, fetus, and newborn throughout the maternity care cycle and shall determine when a transfer is necessary pursuant to 201 KAR 20:670.

(3) The emergency transfer plan shall contain:

(a) The names and addresses of appropriate hospitals offering care for the birthing person or the newborn;

(b) Contact information for either:

1. a. A facility's preferred method of initiating communication to access care; or

b./2./ If that communication is not obtainable, the publicly available information for the facility; or

2./3./ A healthcare provider or practice group that will accept a client in a transfer;

(c) Approximate distance or estimated travel time to indicated hospitals; and

(d) EMS activation process or a description of a private transportation plan.;

(a) The name and location of geographically adjacent facilities providing:

1. Emergency care;

2. Obstetrical care; and

3. Newborn care.

(b) The level of obstetrical or newborn care available;

(c) The approximate travel time to each facility;

(d) A list of the modes of transport services available, including emergency medical services available through 911;

(e) The requirements for activating each mode of transportation;

(f) The mechanism by which medical records and other information concerning the client may be rapidly transmitted to each facility, including fax numbers and electronic health record portals;

(g) Each facility's preferences regarding patient preregistration; and

(h) Contact information for either a healthcare provider or practice group who has agreed in advance to accept clients in transfer, or a facility's preferred method of accessing care by the facility's designated provider on call.;

(4) The LCPM shall notify the receiving provider or hospital of:

(a) The incoming transfer;

(b) The reason for the transfer;

(c) A brief relevant clinical history;

(d) The planned mode of transport; and

(e) The expected time of arrival.

(5) The LCPM shall continue to provide routine or urgent care en route in coordination with any emergency services personnel and shall address the psychosocial needs of the client during the change of birth setting.

(6) Upon arrival at the hospital, the LCPM shall provide a verbal report, including details on the client's current health status and the need for urgent care. The LCPM shall also provide a legible copy of relevant prenatal and labor medical records.

(7) The LCPM shall transfer clinical responsibility to the hospital provider.

(8) If the client chooses, the LCPM may remain to provide continuous support.

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DEPARTMENT OF AGRICULTURE
Office of the State Veterinarian
(As Amended at ARRS, May 12, 2020)

302 KAR 22:130. Equine.

RELATES TO: KRS 246.030, 257.020, 257.030, 257.080, 9 C.F.R. 161.1 – 161.4

STATUTORY AUTHORITY: KRS 277.020, 257.030(4), 257.550, KRS 257.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 257.020 requires the Board of Agriculture to prevent, control, and eradicate any communicable disease of animals. KRS 257.030(4) authorizes the board to promulgate administrative regulations necessary to administer any provision of KRS Chapter 257. This administrative regulation establishes requirements for movement, importation, and exhibition of equine in Kentucky.[HORSE]

Section 1. Definitions.

(1) "Accredited veterinarian" means a veterinarian accredited by the USDA in accordance with the provisions of 9 C.F.R. 161.1 to 161.4.

(2) "Animal health authority" means the person or entity holding the title of state veterinarian or chief livestock official in any particular state or region.

(3) "Book" or "booking" means the contracting or scheduling of a mare to breed to a stallion.

(4) "Breeding" or "bred" means the natural covering of a mare.

(5) "CEM" means contagious equine metritis.

(6) "CEM infected stallion" means a stallion proven or believed to be a carrier of the CEM organism.

(7) "Certificate of Veterinary Inspection" or "CVI" means an official document approved by the chief animal health authority of the state of origin or by USDA APHIS VS to verify the completion of a veterinary inspection by a licensed and USDA accredited veterinarian.

(8) "Certificate of Veterinary Inspection Reconsignment Form" means an official document, on a form approved by the animal health authority of the state of origin, that is attached to a valid CVI for the movement of animals from a sale to the buyer's premises.

(9) "CF test" means a complement-fixation test on equine serum for the detection of specific antibodies to the contagious equine metritis bacterium.

(10) "Cover" means the act of breeding a stallion to a mare.

(11) "Directly" means moved by/in a means of conveyance, without stopping to unload while en route, except for stops of less than twenty four (24) hours to feed, water, or rest the animals being moved, and with no commingling of animals at [such] stops.

(12) "EAV" means equine arteritis virus, the organism that/which causes the disease equine viral arteritis.

(13) "EIA" means equine infectious anemia.

(14) "EVA" means equine viral arteritis, which is a communicable disease in equines.

(15) "EVA sero-negative" means a horse has reacted negatively to a blood test for EVA.

(16) "EVA sero-positive" means a horse has demonstrated a positive reaction in serum neutralization with a titer of greater than one (1) to four (4) to a blood test for EVA.

(17) "EVA vaccinated" or "vaccination" means an equine has been vaccinated with an approved EVA modified live virus vaccine and the vaccination status has been kept current in accordance with the manufacturer's recommendations.

(18) "Exhibition" means a fair, show, exposition, rodeo, competition, trail ride, or racing event, [; or] any presentation that might result in a transfer of ownership, [;] or any presentation for sale.

(19) "High risk mare" means a mare that is culture positive or complement-fixation (CF) positive after being bred to an CEM Infected stallion before stallion was removed from service and treated.

(20) "Interstate movement" means movement from one (1) state into or through any other state.

(21) "Intrastate movement" means movement solely within the boundaries of the Commonwealth of Kentucky.

(22) "Kentucky approved veterinarian" or "KAV" means a licensed veterinarian who is accredited to do regulatory work by the USDA and who has physically demonstrated proper swabbing and sampling methods to a representative of the Office of the State Veterinarian.

(23) "Location identification ~~[(LID)]~~number" or "LID" means a nationally unique number issued by a state, tribal, or federal animal health authority to a location as determined by the state or tribe in which it is issued. The LID number can[may] be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It can[may] also be used as a component of a group or lot[group/lot] identification number (GIN).

(24) "Maiden mare" means a female equine over 731 days of age that has not been covered by a stallion.

(25) "Mare" means a female horse over 731 days of age.

(26) "Medium risk mare" means a mare that is CF negative and culture negative but bred to an CEM Infected stallion prior to treatment.

(27) "Move" means to carry, enter, import, mail, ship, or transport; to aid, abet, cause~~[,]~~ or induce carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive in order to carry, enter, import, mail, ship, or transport; or to allow any of these activities.

(28) "National Uniform Eartagging System" or "NUES" means a numbering system for the identification of individual animals in the United States that provides a nationally unique identification number for each animal.

(29) "Office of State Veterinarian" or "OSV" means that section of the Kentucky Department of Agriculture in KRS 246.030.

(30) "Official eartag" means an identification tag approved by APHIS that bears an official identification number for individual animals. Beginning March 11, 2014, all official eartags manufactured [must] bear an official eartag shield. Beginning March 11, 2015, all official eartags applied to animals must bear an official eartag shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users, subject to the approval of the USDA administrator. The official eartag is[must] be tamper-resistant and has[have] a high retention rate in the animal.

(31) "Official identification number" or "OID" means a nationally unique number that is permanently associated with an animal or group of animals and that adheres to one (1) of the following systems:

(a) National Uniform Eartagging System (NUES);

(b) Animal identification number (AIN);

(c) Location-based number system (LID);

(d) Any other numbering system approved by the Administrator for the official identification of animals, including a group identification number;

(e) The animal's breed association tattoo registration number, or freeze brand number that[which] uniquely identifies the animal, if[when] accompanied by the registration documents; or

(f) Tattoo.

(32) "Owner" is defined by KRS 257.010(11) and means any person owning or leasing from another, or having in charge any equine.

(33) "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

(34) "Premises identification number" or "PIN" means a nationally unique number assigned by a state, tribal, or federal animal health authority to a premises that is, in the judgment of the state, tribal, or federal animal health authority, a geographically distinct location from other premises. The PIN can[may] be used in conjunction with a producer's own livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It can[may] be used as a component of a group or lot[group/lot] identification number (GIN).

(35) "Radio Frequency Identification Device" or "RFID" means a device electronically encoded with a unique identification and that meets the applicable International Standards Organization (ISO) standards.

(36) "Set of CEM swabs" means:

(a) For a female equine, a swab obtained from the clitoral sinus and clitoral fossa; and

(b) For an intact male equine, a swab obtained from the prepuce, the urethral sinus, and the fossa glandis, including the diverticulum of the fossa glandis.

(37) "Shedder" or "shedding" means an equine has been determined to have EAV in its body and is capable of transmitting the EAV to other equine.

(38) "Stallion" means a male horse, other than a gelding, over 731 days of age.

(39) "USDA" means the United States Department of Agriculture.

(40) "USDA APHIS VS" means the USDA, Animal Plant and Health Inspection Service, Veterinary Services.

Section 2. Certificate of Veterinary Inspection.

(1) CVI Expiration Period.

(a) A CVI shall remain valid for thirty (30) days after date of issuance, for all purposes except intrastate exhibition.

(b) A CVI for intrastate exhibition shall remain valid for the duration of the EIA test certificate's validity, but [in any event] shall not remain valid for more than one (1) year from the date [when] the CVI was issued.

(2) A CVI shall contain [the following information]:

(a) Identification of each animal recorded on the certificate;

(b) An official identification (OID) for each equine;

(c) The species, breed, sex, and age of the equine;

(d) The name and address of the owner or agent shipping the animal;

(e) The location from which the animal is loaded for movement;

(f) The name and address of the person receiving the animal;

(g) The location at which the animal will be received;

(h) The purpose of the movement and the total number of animals;

(i) All blank spots for data are crossed out by the accredited Veterinarian prior to signing;

(j) The import permit or movement number issued by the OSV;

(k) The following statement or one substantially similar: "I certify as an accredited veterinarian that the above described animals have been inspected by me on this date and that they are not showing signs of infection or communicable disease (except if noted). The vaccinations and results of tests are as indicated on the certificate. To the best of my knowledge, the animals listed on this certificate meet the state of destination and federal interstate requirements."; and

(l) The signature, date of signature, and licensure number of the accredited veterinarian.

(3) [If/Where] the accredited veterinarian uses[shall send] a paper CVI. (a) The first physical page shall be mailed or otherwise delivered to the OSV within seven (7) days of the date it is written.

(b) An exact replica image (a photocopy) of the first page may be submitted in lieu of the first physical page.

(c) The second page shall physically accompany the animal being moved and be readily accessible during the movement.

(d) The third page shall be sent to the Animal health authority in the state of destination within seven (7) days of the date it is written.

(e) The fourth page shall be retained by the issuing veterinarian for a period of at least five (5) years from the date of issuance.

(f) A legible copy of any supplemental pages shall have its identification on the CVI[be] stapled to the original and each copy of the CVI.

(g) Any equine listed on the CVI, but not moved, shall be struck through and initialed.

(4) Electronically submitted CVI.

(a) A CVI or[CVI and] permit [submission requirements] may be submitted via an importable format as allowed by USAHA AHSIS Subcommittee on Data Standards ["]standard XML schema

document~~[“”]~~.

(b) Animals moving with an electronically submitted CVI shall be accompanied by a paper copy or have the electronic material stored on a device that can[may] be read immediately upon request.

(5) CVI Reconsignment Form. Sale animals purchased at a Kentucky sale venue may move to the buyer's destination with a CVI Reconsignment Form attached to the original CVI for the sale ~~if [the following conditions are met]:~~

(a) The animal health authority in the state of destination agrees to accept a reconsigned CVI;

(b) The animal shall[will] reach its final destination within thirty (30) days from the date stated on the original CVI;

(c) The requirements of the state of destination, including required test results, have been met and denoted on the CVI Reconsignment Form; and

(d) The reconsigning veterinarian submits the Reconsignee Certificate and a copy of the original CVI to the animal health authority in the state of destination and to the OSV within seven (7) days of the date of reconsignment, and meets the other requirements established[set forth] in subsection (3) of this section[section (3) above] for paper submission or subsection (4) of this section for electronic submission.

Section 3. Movement Permit.

(1) A permit for interstate movement into Kentucky shall[is] only be required during times of equine disease outbreaks, or from ~~[such]areas where [such]an outbreak has occurred~~. Persons wishing to move equine interstate into Kentucky shall consult any applicable requirements as found on the Web site at www.kyagr.com. Instructions and a permit, if required, may be obtained on the Web site.

(2) Entry permit instructions may be obtained by calling the OSV at 502-573-0282, Monday through Friday, 8 a.m. EST to 4:30 p.m. EST.

(3) Required testing or vaccinations. All required tests and vaccinations shall be performed by~~[one (1) of the following]:~~

(a) A licensed and accredited veterinarian;

(b) A representative of the State Veterinarian; or

(c) A representative of the USDA.

(4) Required tests shall be conducted at no expense to the Commonwealth of Kentucky.

(5) Required laboratory tests shall be conducted in a state-federal approved laboratory.

Section 4. Official Identification and Other Acceptable Identification. Methods of official identification. The official individual identification shall consist of a set of alphanumeric characters or physical characteristics that shall before] uniquely associated with an individual equine as established in subsections (1) through (5) of this section. Required information shall include[listed in this subsection]:

(1) A written or graphic description of an equine that uniquely identifies that equine and includes ~~the[all of the following information]:~~

(a) Breed;

(b) Age;

(c) Color;

(d) Distinctive markings; and

(e) Gender and sexual status;~~;~~]

(2) An official breed association tattoo, tag, or photograph;

(3) A microchip that complies with ISO 11784/11785;

(4) A non-ISO electronic identification injected to the equine on or before March 11, 2014; or

(5) An RFID, only one (1) of which shall be placed on an animal, if the RFID[all the following apply]:

(a) ~~[The RFID]~~Uniquely identifies the animal;

(b) ~~[The RFID]~~Is attached to or implanted in the animal; and

(c) ~~[The RFID]~~Is registered to a PIN or to a person;~~and~~

~~(d) Only one (1) RFID shall be placed on an animal.]~~

Section 5. Premises of Origin Information.

(1) Premises of origin information shall be provided about

premises from which the equines were loaded.

(2) The premises of origin information of the specific location the equines were loaded shall include:

(a) A PIN or LID issued by the USDA, OSV, or the animal health authority in the state of origin or the physical address of the location or origin; and

(b) The equine owner at the time of movement~~;~~] and that owner's address and contact information.

Section 6. Requirements for Interstate Movement into Kentucky. ~~[(1)] An[No]~~ equine shall not enter[entering] Kentucky without having a valid CVI and either a Form VS 10-11, or an EIA test form verifying negative EIA from a laboratory approved by the USDA, within the past twelve (12) months; except if the equine[when]:

~~(1)[(a)] [The equine]~~Has a valid Equine Interstate Event Permit;

~~(2)[(b)] [The equine]~~Is an unweaned foal accompanied by their dam, in which case, the foal shall be exempt from the EIA test requirement or a VS 10-11;

~~(3)[(c)] [The equine]~~Is directly moving to a Kentucky veterinary facility; or

~~(4)[(d)] [The equine]~~Is directly moving to an approved Kentucky horse sale.

Section 7. Requirements for Movement within Kentucky.

(1) Equines moving intrastate for sale, racing, change of ownership, exhibition, or into a public stable, fairgrounds, or showgrounds shall comply with paragraphs (a) and (b) of this subsection.[meet the following requirements:]

(a) CVI or Equine Interstate Event Permit.

1. Equines moving intrastate shall be accompanied by a valid CVI.

2. A CVI for change of ownership or sale shall be valid for thirty (30) days from the date of issuance.

3. A CVI for intrastate exhibition shall remain valid for the duration of the EIA negative test result certificate date, but shall not exceed one (1) year from the date of CVI issuance.

4. An Equine Interstate Event Permit issued within the previous twelve (12) months shall be accepted in lieu of a CVI and EIA test report for exhibition purposes.

5. A CVI or an Equine Interstate Event Permit shall be [deemed]void upon change of ownership.

(b) Equine Infectious Anemia (EIA) test results.

1. Except for unweaned foals accompanied by their dam, equines shall be negative to an USDA official test for EIA within the previous twelve (12) months.

2. A copy of Form VS 10-11 or an EIA test form verifying a negative EIA test result from a laboratory approved by the USDA shall accompany the CVI. The laboratory accession number and date of test shall be recorded on the CVI.

3. Unweaned foals accompanied by their dam shall be exempt from EIA test requirements.

(2) Equine exempt from intrastate movement requirements~~;~~]

(a) Equines moving farm-to-farm with no change of ownership or to a veterinary facility shall not be required to obtain a CVI or negative EIA test result.

(b) Equines moving directly to an approved Kentucky horse sale shall meet the requirements established in section 17 of this administrative regulation.

Section 8. Requirements for Movement for Export from Kentucky. Equines being moved for export from Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection.

Section 9. Requirements for Interstate Movement through Kentucky. Equines being moved interstate through Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection.

Section 10. Extended Equine CVI Program.

(1) The Extended Equine CVI shall be accepted from equines from any states participating in a Memorandum of Agreement with Kentucky. The participating states are four (4) at the link: <https://www.globalvetlink.com/eecvi/>.

(2) The Extended Equine CVI shall be issued through Global Vet Link, and shall be valid for six (6) months from date of issue for out-of-state equines.

(3) The Extended Equine CVI shall be valid until one (1) year after date of issue for intrastate movement for exhibition or until the expiration of the EIA test, whichever occurs first.

(4) Each equine shall have a permanent individual animal identification in the form of a unique identifier, lip tattoo, brand, electronic implant, or digital photograph, which shall be referenced on the issued permit.

(5) An accurate event itinerary log shall be in the owner or transporter's possession documenting each equine movement during the period of permit.

Section 11. Treatment of Imported Mares.

(1) A mare imported into Kentucky for breeding from a country known to be affected by Contagious Equine Metritis (CEM) shall be tested and treated for CEM by or under the direct supervision of a KAV who is approved by the Kentucky Department of Agriculture according to the procedures established in this section.

(a) Prior to the mare's arrival, the premises shall be inspected by a representative of the OSV in accordance with USDA Veterinary Services Guidance 13406.1 and an [Agreement] to Import Mare Worksheet form shall be completed at the time of inspection and signed by the farm manager or authorized representative.

(b) Upon arrival, the mare shall be placed in quarantine until released by the OSV.

(c) Following arrival, the Kentucky approved veterinarian shall determine the mare's pregnancy status, review the prescribed testing and treatment schedule, and submit to the OSV the reported findings and acceptance, or required amendments to the testing schedule, based on the conditions of the mare by completing the Import Mare Pregnancy and Schedule form.

(d) During the course of the quarantine, the Kentucky approved veterinarian shall collect and submit for CEM culture three (3) sets of swabs from the mare. The sets of swabs shall be collected during a twelve (12) day period with at least of seventy-two (72) hours lapsing between each set being collected. Mares determined and reported to be non-pregnant shall have an additional swab collected from the endometrium or distal cervix to be included with the third set of CEM swabs.

(e) Following the third set of CEM swabs being submitted for culture, the Kentucky approved veterinarian shall manually remove all organic debris from the clitoral fossa and sinuses. The sinuses shall then be flushed with an approved ceruminolytic agent until all remaining debris has been removed. The Kentucky approved veterinarian shall, for five (5) consecutive days, wash and clean (scrub), with a solution of not less than two (2) percent chlorhexidine in a detergent base, the external genitalia, vaginal vestibule, clitoral fossa, and clitoral sinuses. The clitoral fossa, clitoral sinuses, external genitalia, and vaginal vestibule shall be filled and covered with an antibiotic ointment that is effective against the CEM organism and is approved by USDA and the Kentucky State Veterinarian.

(f) After the procedures established in paragraphs (c) and (d) of this section have been satisfactorily completed and all three (3) of the swabs are reported to the OSV as testing negative for CEM bacterium, the completed CEM Worksheet shall be submitted and the imported mare may be released from quarantine by the OSV.

(g) Before an imported mare may be bred in Kentucky, a swab shall be collected from the endometrium and cultured negative for CEM. This swab may be included with any of the three (3) required sets of swabs, or for a pregnant mare, may be collected after foaling.

(h) An imported mare bred in Kentucky shall be prophylactically scrubbed and bred last of the group of mares bred during that session. The external genitalia of the covering stallion

shall be cleansed, as established[defined] in Section 12(2)(e) of this administrative regulation, after breeding an imported mare. The next three (3) mares bred to the stallion, after the imported mare, shall have a blood sample collected and submitted for CF testing fifteen (15) to twenty-five (25) days post-breeding. Included with the submission of the sample shall be the name of the imported mare that was bred prior to the mare being tested, and the name of the covering stallion, date, and time bred.

(i) The farm manager where the stallion is standing shall notify the owner or agent of the three (3) mares bred to the stallion, following an imported mare, that a post-breeding CF test shall be/is] required.

(j) The farm manager where the stallion is standing shall contact the OSV and provide the name, breeding date, time, and location of the imported mare covered, and the name, breeding date, time, and location of the three (3) mares bred to the stallion following the imported mare.

(2) A CEM culture positive mare shall remain under quarantine and shall be treated as established[described] in subsection (1)(d) and (g) of this section[administrative regulation]. The mare shall have sets of swabs obtained, as established[described] in subsection (1)(c) of this section[administrative regulation], no less than twenty-one (21) days after the last day of treatment. If all required specimens taken from the mare test negative for the CEM bacterium, then the mare may be released from quarantine.

(3) User fees shall be assessed for an equine import.

(a)1. An import broker making application to import mares into Kentucky for completion of a CEM quarantine shall pay a fee for the processing, implementation, and monitoring of the quarantine.

2. If multiple destinations are declared for equine to be quarantined, each listed destination shall constitute a separate application.

(b) An application processing and premise inspection fee of \$100 shall be assessed for each application received to import mares into Kentucky for completion of the CEM quarantine.

(c) Upon receipt of the mare or mares[mare(s)] at the quarantine facility, the broker shall be assessed a fee of \$120 per individual mare for the receipt, inspection, quarantine, and monitoring to establish the [equine's] disease status during the quarantine period.

(d) An import broker shall pay an additional fee for each shipment of mares that[which] arrives at a Kentucky quarantine destination on weekends, state-recognized holidays, or[and] between the hours of 5:01 p.m. and 6:59 a.m.

1. For weekends, and between the hours of 5:01 p.m. and 6:59 a.m., the assessed fee shall be sixty (60) dollars per hour with a minimum of two (2) hours, including the travel time of KDA employees.

2. For state-recognized holidays, the assessed fee shall be \$120 per hour with a minimum of two (2) hours charged. The holiday fee shall apply to all mares received during the holiday period, which runs from the close of business on the last scheduled work day preceding the holiday, through the start of business on the next scheduled work day following the holiday, including the travel time of KDA employees.

(e) The broker shall pay the assessed fees by check. The check shall be made payable to the Kentucky State Treasurer and mailed to the OSV within ninety-six (96) hours of receipt of the charges.

(f) Failure to comply with the user fee schedule may result in an application for importation to be delayed or denied.

(4)[Section 4.] An imported mare shall be released from quarantine if:

(a)[1.] The requirements of all sections of this administrative regulation have been completed;

(b)[2.] The required specimens taken from the mare test negative for the CEM bacterium; and

(c)[3.] No other evidence of CEM conditions, indication of possible CEM suppression, or other related medical issues were found.

Section 12. Treatment of Imported Stallions.

(1) A stallion imported into Kentucky from a country identified or classified by the USDA to be affected with Contagious Equine Metritis, and which imports into the United States and Kentucky via a breeding permit issued by USDA shall be quarantined by the OSV until the testing for CEM is complied with, and it is determined the stallion is free of the disease-causing organism.

(2) Stallions, other than those addressed in subsection (1) of this administrative regulation, that are imported from any country outside the continental United States, its territories, possessions, or Canada shall, before breeding in Kentucky, be treated by or under the direct supervision of a KAV according to the procedures established in this section.

(a) While wearing disposable gloves and using disposable equipment, the Kentucky approved veterinarian shall collect one (1) set of CEM swabs from the stallion to be cultured for CEM.

(b) The stallion shall be bred to two (2) test mares that have been qualified as CEM-free. The test mares shall qualify as CEM-free if:

1. They test negative to a CF test; and

2. ~~Three~~ Three (3) sets of swabs taken from the mares during a twelve (12) day period, with at least ~~seventy-two~~ seventy-two (72) hours lapsing between each set being collected, are culture negative for the CEM bacterium.

(c) After being bred by the stallion, a set of CEM swabs shall be collected from the test mares on the third, sixth, and ninth days after breeding.

(d) The test mares shall have a CF test conducted fifteen (15) days after breeding.

(e) With the stallion in full erection, the Kentucky approved veterinarian shall, for five (5) consecutive days, wash and clean (scrub) with a solution of not less than two (2) percent chlorhexidine in a detergent base, the prepuce, urethral sinus, and fossa glandis, including the diverticulum of the fossa glandis. The external genitalia, the prepuce, urethral sinus, and fossa glandis, including the diverticulum of the fossa glandis, shall then be filled and covered with an antibiotic ointment that is effective against the CEM organism and ~~that~~which is approved by the USDA and the OSV.

(f) All tests and cultures required by this section shall be conducted at a laboratory approved by the USDA's National Veterinary Services Laboratory and the OSV. A list of approved laboratories may be found at http://www.aphis.usda.gov/animal/health/lab_info/services/downloads/Approvedlabs_CEM.pdf. If all required specimens taken from the test mares and stallion are test-negative and culture-negative for the CEM bacterium, then the stallion and the test mares may be released from quarantine.

(3) User fees shall be assessed for an equine import.

(a) An import broker ~~applying~~making application to import a stallion into Kentucky for completion of a CEM quarantine shall pay a fee for the processing, implementation, and monitoring of the quarantine. If multiple destinations are declared for equines to be quarantined, each listed destination shall constitute a separate application.

(b) An application processing and premise inspection fee of \$100 shall be assessed for each application received to import horses into Kentucky for completion of the prescribed CEM quarantine and testing.

(c) Upon receipt of the stallion at the quarantine facility, the broker shall be assessed a fee of \$260 per individual stallion for the receipt, inspection, quarantine, test breeding, and monitoring of the stallion and test mares to establish the animal's disease status during the quarantine period.

(d) An import broker shall pay an additional fee, as established in subparagraph 2. of this paragraph, for each shipment of stallions ~~that~~which arrive at a Kentucky quarantine destination on weekends, state-recognized holidays, and between the hours of 5:01 p.m. and 6:59 a.m.

1. For weekends and between the hours of 5:01 p.m. and 6:59 a.m., the assessed fee shall be sixty (60) dollars per hour with a minimum of two (2) hours time charged including the travel time of OSV employees.

2. For state-recognized holidays, the assessed fee shall be \$120 per hour with a minimum of two (2) hours of time charged.

The holiday fee shall apply to all stallions received during the holiday period, which runs from the close of business on the last scheduled work day preceding the holiday, through the start of business on the next scheduled work day following the holiday including the travel time of OSV employees.

(e) The broker shall pay the assessed fees by check. The check shall be made payable to the Kentucky State Treasurer and mailed to the OSV within ninety-six (96) hours of receipt of the charges.

(f) Failure to comply with the user fee schedule ~~shall subject the~~may result in an application for importation to be delayed or denied.

Section 13. Treatment of Contagious Equine Metritis. Treatment of CEM in stallions shall occur in accordance with the plan developed by OSV and the veterinarian for the stallion.

Section 14. Breeding Shed for Imported Female Equines.

(1) Maiden mares over 731 days of age at the time of importation from any country outside the continental United States, its territories, possessions, or Canada shall, before being bred in Kentucky, have two (2) sets of swabs testing negative for CEM bacterium with a minimum of seventy-two (72) hours lapsing between collecting the swabs. One (1) of the two (2) sets of swabs shall include a swab collected from the endometrium. Imported maiden mares bred in Kentucky shall be prophylactically scrubbed and bred last of any group of mares bred during that session. After the breeding, the external genitalia of the covering stallion shall be cleansed as ~~established~~defined in Section 12(2)(e) of this administrative regulation.

(a) The next three (3) mares bred to the stallion, after the imported mare, shall have a blood sample collected and submitted for CF testing fifteen (15) to twenty-five (25) days postbreeding. Included with the submission of the sample shall be the name of the imported mare that was bred prior to the mare being tested, and the name of the covering stallion, date, and time bred.

(b) It shall be the responsibility of the farm where the stallion is standing to notify the owner or agent of the three (3) mares bred to the stallion, following an imported mare, that a postbreeding CF test is required.

(c) The farm where the stallion is standing shall contact the OSV, and provide the name, breeding date, time, and location of the imported mare covered, and the name, breeding date, time, and location of the three (3) mares bred to the stallion following the imported mare.

(2) Mares over 731 days of age imported from any country outside the continental United States, its territories, possessions, or Canada, that are not listed ~~in the Code of Federal Regulations~~ as being affected by CEM shall, before being bred in Kentucky, have two (2) negative sets of swabs with a minimum of seventy-two (72) hours lapsing between collecting the swabs. Prior to being bred, a swab shall be collected from the endometrium and tested negative for CEM. This swab may be included with either of the required sets, or for a pregnant mare, may be collected after foaling. Imported mares, addressed in this section, bred in Kentucky shall be prophylactically scrubbed and bred last of any group of mares bred during that session. The covering stallion shall be cleansed as ~~established~~defined in Section 1 of this administrative regulation after breeding.

(a) The next three (3) mares bred to the stallion, after the imported mare, shall have a blood sample collected and submitted for testing fifteen (15) to twenty-five (25) days postbreeding. Included with the submission of the sample shall be the name of the imported mare that was bred prior to the mare being tested, and the name of the covering stallion, date, and time bred.

(b) It shall be the responsibility of the farm where the stallion is standing to notify the owner or agent of the three (3) mares bred to the stallion, following an imported mare, that the postbreeding CF test is required.

(c) The farm where the stallion is standing shall contact the OSV and provide the name, breeding date, time, and location of the imported mare covered, and the name, breeding date, time, and location of the three (3) mares bred to the stallion following the

imported mare.

(3) Mares, other than maidens, over 731 days of age imported into Kentucky for breeding from countries listed ~~in the Code of Federal Regulations~~ as being affected with CEM shall be treated in accordance with Section 11 of this administrative regulation.

Section 15. Equine Viral Arteritis in Thoroughbreds.

(1) EVA Shedding Stallions. A thoroughbred stallion known to be shedding EAV shall not be permitted to breed until the State Veterinarian determines that the stallion does not pose a threat of transmitting EAV. In making this determination, the State Veterinarian shall consider whether the requirements of paragraphs (b) and (c) of this section ~~shall~~**[will]** be complied with by the farm on which the shedding stallion is located. The ~~following~~**[restrictions established in paragraphs (a) through (c) of this subsection]** shall apply to a shedding stallion that is permitted to breed.**[;]**

(a) An owner or agent of a mare booking or seeking to book a mare to a shedding stallion shall be notified in writing by the owner or agent that the stallion is classified as an EVA shedder. A written copy of the booking confirmation shall be sent to the OSV.**[;]**

(b) A shedding stallion shall be housed, handled, and bred in a facility isolated from a nonshedding stallion.**[; and]**

(c) A shedding stallion shall be bred to a mare that:

1. Has been vaccinated against EVA at least twenty-one (21) days prior to breeding; or

2. Demonstrates an EVA titer from vaccination or exposure to EAV, if the serological EVA test to determine the mare is EVA ~~[EVA]~~sero positive was conducted no sooner than November 1 of the previous calendar year for the following breeding season.

(2) EVA sero positive nonshedding stallions. The ~~following~~**[restrictions established in paragraphs (a) and (b) of this subsection]** shall apply to a nonshedding stallion that was previously classified as a shedding stallion.**[;]**

(a) During the first breeding season following the stallion's classification as a nonshedder, the first five (5) EVA Sero negative mares covered by the stallion shall have a blood sample collected for an EVA test twenty-eight (28) days after breeding.**[; and]**

(b) During the second breeding season, the stallion shall be bred to two (2) mares negative for EAV antibodies or have its semen collected and cultured for EAV. If the culture report and blood samples are negative for EAV, there shall not be restrictions placed on a future breeding season.

(3) A EVA Sero positive EVA vaccinated (arvac) stallion that did not have an EVA negative test prior to vaccination shall be eligible for breeding by complying with **paragraph (a) or (b) of this subsection.****[one (1) of the following:]**

(a) Semen shall be collected and cultured for EAV and culture shall be reported as negative.**[; or]**

(b) Prior to entering the breeding shed, the stallion shall be bred to two (2) mares negative for EAV antibodies. The two (2) mares shall have blood collected for an EVA test twenty-eight (28) days after breeding. **Prior to the horse entering the breeding shed,** test results shall be reported as negative for EAV antibodies.

(4) A nonvaccinated EVA Sero positive stallion (or EVA vaccinated stallion that does not have documentation of the vaccination or a stallion with unknown exposure to EAV) shall be eligible for breeding **as established in paragraphs (a) through (c) of this subsection.****[by complying with the following:]**

(a) **1.** Semen shall be collected and cultured for EAV; or

2. [(b)] Prior to entry into the breeding shed, the stallion shall be bred to two (2) mares negative for EVA antibodies. The two (2) mares shall have blood collected for an EVA test twenty-eight (28) days after breeding. **Prior to the horse entering the breeding shed,** test results shall be reported as negative for EVA antibodies.

[(b)] [(c)] The first two (2) EVA Sero negative mares covered by the stallion shall have a blood sample collected for an EVA test twenty-eight (28) days after breeding.

[(c)] [(d)] The Kentucky State Veterinarian may monitor a EVA Sero negative mare covered by the stallion during a breeding season. **Monitoring shall include [(b)]** having a blood sample collected for an EVA test twenty-eight (28) days after breeding.

(5) The determination that a stallion is not a shedder shall be

made based on a scientific procedure approved by the state veterinarian. The procedures shall be conducted in the presence of the State Veterinarian or his or her designee.

(6) EVA Classification Category.

(a) Category One Mares. Category One Mares shall include mares bred to a shedding stallion for the first time. Category One Mares shall be EVA vaccinated a minimum of twenty-one (21) days prior to the first cover by a shedding stallion and shall be isolated a minimum of twenty-one (21) days after the first cover.

1. During isolation, the Category One Mare shall be physically separated from other **equine or equines [equine(s)]** in a separate isolation area approved by the State Veterinarian or designated personnel.

2. After the isolation period, a Category One Mare may move without restriction.

3. A Category One Mare that does not conceive after being bred to a shedding stallion and has completed the twenty-one (21) day isolation period following the first cover shall be reclassified as a Category Two Mare for the remainder of the breeding season.

(b) Category Two Mares. Category Two Mares shall include a mare:

1. **a.** Bred to a shedding stallion within the previous two (2) years; or

b. [(2)] Previously classified as a Category One Mare that has completed the twenty-one (21) day isolation period; and

2. [(3)] May move without restrictions after being covered by a shedding stallion.

(c) A mare bred to a shedding stallion may return to the farm of origin in a van or other transport vehicle by herself, or with EVA Sero positive equine. Upon returning to the farm of origin, the van or other transport vehicle and equipment used to move the mare shall be immediately cleaned and disinfected.

(d) A mare bred to a shedding stallion shall be bred to a shedding stallion during that estrus cycle. A mare may be bred to a nonshedding, EVA vaccinated stallion on subsequent estrus cycles during the breeding season.

(e) 1. Except as **established [provided]** in subparagraph (2) of this subsection, in cooperation with the stallion's owner or manager, the State Veterinarian shall determine that a stallion is not shedding EAV prior to the stallion being permitted to breed.

2. A stallion shall be permitted to breed with an EVA EVA Sero negative test mare without the determination required by paragraph (a) of this subsection.

(7) A stallion or mare infected with EAV during the breeding season shall immediately cease breeding, and the State Veterinarian shall be immediately notified. An owner or agent with a mare booked or bred to a stallion that became infected with EAV during the breeding season shall be immediately notified in writing by the stallion's owner or agent. A copy of the written notification shall be sent to the State Veterinarian. A stallion infected with EAV during the breeding season shall be classified as a shedder and shall be handled accordingly. Following the stallion's classification as a shedder, the State Veterinarian may reclassify the stallion as a nonshedder in accordance with Section 15(5) of this administrative regulation.

(8) Equine Vaccinated Against EVA. Equine vaccinated for the first time against EVA shall have a blood sample collected for an EVA test prior to vaccination. A certificate documenting the equine has been EVA Vaccinated shall be sent to the State Veterinarian within seven (7) days of the vaccination date. A EVA Vaccinated stallion shall not be exposed to an EVA affected equine and shall not be used for breeding within twenty-one (21) days after vaccination. A thoroughbred stallion used for breeding in Kentucky shall be EVA Vaccinated annually with an approved state federal EVA vaccine.

(9) A nurse mare shall be:

(a) EVA Sero negative;

(b) Officially EVA Vaccinated; and

(c) Isolated from other equine on the farm.

(10) A teaser shall be officially EVA Vaccinated against EVA.

(11) (a) An EVA test mare shall be isolated from the other equine and under the supervision of state personnel if the mare becomes:

1. Affected with EAV after breeding; or
2. EVA Sero positive after breeding.

(b) An isolated mare shall be eligible for release from isolation by the State Veterinarian after:

1. Twenty-eight (28) days in isolation; or
2. The spread of EAV is no longer a risk, whichever is longer.

Section 16. Equine Infectious Anemia Positive Horses.

(1) Equines positive as[ans] confirmed by a[fo-an] USDA approved test for EIA shall be officially identified and permanently identified using the numbers and letter "61A" with a brand on the left neck region.

(2) All classified positive EIA equines not slaughtered or euthanized shall be isolated and quarantined. Isolation shall include stabling in a stall that is screened to preclude entry and exit of mosquitoes, stable flies, and horse flies during seasons of the year when such insects are prevalent. EIA positive equines shall[will] also be kept at least 200 yards from all other equine.

(3) The movement of any quarantined positive EIA equines shall occur only with permission by the OSV.

(4) All equines on the premises where a EIA-positive equine was identified shall be quarantined pending a negative test for EIA.

Section 17. Approved Kentucky Horse Sale.

(1) Operating Sale Requirements. The sale management shall comply with paragraphs (a) through (i) of this subsection[meet the following requirements] pertaining to the sale and the premises at which the sale is conducted. The sale manager shall:

(a) Submit[Furnish] a schedule of sale days to the OSV;

(b) Submit an Application for an approved Kentucky horse sale to the OSV and have approval confirmed by the OSV prior the first sale date;

(c) Maintain well-constructed pens and handling facilities that are clean, well-lighted and in good repair;

(d) Maintain a cleaning and disinfection program;

(e) Ensure that all equines on the premises without valid negative EIA test certificates shall have a blood sample drawn for EIA testing by the approved market veterinarian at the owner's expense prior to the sale;

(f) Ensure[insure] that all horses be identified by a back tag or other official ID tag, with each horse's color, sex, breed, age, and back tag number, which shall be recorded by sales staff;

(g) Maintain on file for at least twelve (12) months, complete records of the origin and destination of each equine going through the sale. These records shall be made available to the department upon request. Records shall include [the following]:

1. Identification of each equine sold that meets the requirements as established in paragraph (e) of this subsection; and

2. The premises of origin address for the equine, the name and address for the seller, and the name and address for the buyer. A driver's license or other valid identification shall be used to verify complete address of both the buyer and seller of each equine; [and]

(h) Post notices announcing that equines are being sold without proof of negative testing for EIA in visible locations throughout the market and sale area; and[-]

(i) Arrange for a licensed and accredited veterinarian, approved by the OSV as the equine market veterinarian, to implement the provisions established in Section 3 of this administrative regulation.

(2) Veterinary Duties. The equine market veterinarian shall:

(a) Submit [an application] of the form titled Responsibilities of the Equine Market Veterinarian to the OSV and be approved by the OSV.

(b) Visually inspect each equine for clinical evidence of communicable diseases prior to the equine leaving the sales premises and report the presence of any communicable disease condition to the State Veterinarian or an authorized representative;

(c) Provide direct supervision for the collection of required blood samples from each eligible equine and for the recording of corresponding identification of each sample; and

(d) Cooperate with state-federal inspectors, and sale

management, in carrying out all applicable laws and regulations governing the sale and movement of equines.

Section 18[20] Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "CVI", 2019;

(b) "CVI Reconsignment Form", 2019;

(c) "Form VS 10-11", 2019;

(d) "EIA Test Form", 2019;

(e) "Import Mare Agreement Form", 2019;

(g) "Import Mare Pregnancy and Schedule Form", 2019;

(h) "Import Mare Worksheet Form", 2019;

(i) "Import Stallion Worksheet Form", 2019;

(j) "Import Stallion Agreement Form and CEM Imported Stallion Worksheet Form", 2019; and

(k) "Responsibilities of the Equine Market Veterinarian", 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Animal Health, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort, Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

DEPARTMENT OF AGRICULTURE
Office of the State Veterinarian
(As Amended at ARRS, May 12, 2020)

302 KAR 22:150. Cervids.

RELATES TO: KRS 150.730 – 150.735, 246.030(4), 257.020, 257.030, 257.080, 257.990, Chapter 321, 9 C.F.R. 55. 81.4, 161.1 – 161.4

STATUTORY AUTHORITY: KRS 150.720(1), 246.295(1), 257.550, KRS 257.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.720(1), 246.295(1), and 257.550 require the Department of Agriculture, in cooperation with the Department of Fish and Wildlife Resources, to promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned[privately-owned] and farm-raised cervids maintained for the production of meat and other products. This administrative regulation establishes criteria and health requirements necessary to prevent the introduction of chronic wasting disease into Kentucky and develop a herd monitoring system, and establishes requirements for intrastate and interstate movement of farmed cervids.

Section 1. Definitions.

(1) "USDA-accredited veterinarian" means a veterinarian accredited by the USDA in accordance with the provisions of 9 C.F.R. 161.1 to 161.4.

(2) "Adjacent herd" means:

(a) A herd of cervids occupying premises that share a border or boundary line with premises occupied by a chronic wasting disease positive herd, including a heard[to-include herds] separated by a road or stream; and[roads-or-streams; or]

(b) A herd of cervids occupying premises that were previously occupied by a chronic wasting disease positive herd within the past five (5) years.

(3) "Animal identification number" or "AIN" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of fifteen (15) digits, with the first three (3)[(4)] being the country code (either 840 for the United States at large or a unique code for any U.S. territory that elects to use it in place of the 840 code).

(4) "APHIS" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

(5) "Approved laboratory" means the National Veterinary Service Laboratory in Ames, Iowa, or any other laboratory approved by the Administrator of the Cervid and Plant Health Inspection Service of the USDA.

(6) "Certificate of Veterinary Inspection" or "CVI" means an official document, on a form approved by the chief animal health official of the state of origin or by USDA APHIS Veterinary Services for verification of veterinary inspection that is issued by a licensed and accredited veterinarian.

(7) "Certified" means the status achieved by a herd that has met the standards of the Chronic Wasting Disease Herd Certification Program continuously for at least five (5) years.

(8) "Certified Chronic Wasting Disease (CWD) Herd" or "herd" means a group[herd] of cervids under common ownership or supervision that has achieved "certified" status in the Kentucky Herd Certification Program, the federal Chronic Wasting Disease Herd Certification Program, or a state Chronic Wasting Disease Certification Program approved by APHIS or the State Veterinarian and that is on:

(a) One (1) or more parts of any single permitted premises (lot, far, or ranch); or

(b) Two (2) or more premises that are geographically separated but on which animals have been interchanged or had direct or indirect contact with one another.

(9) "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the Cervidae family and hybrids thereof.

(10) "Cervid Chronic Wasting Disease Surveillance and Identification" or "CCWDSI" means a Cervid Management Plan that includes two (2) programs:

- (a) The Chronic Wasting Disease HCP; and
- (b) The Chronic Wasting Disease HMP.

(11) "Cervid Herd Plan" means a written herd management agreement or premises management agreement:

- (a) Developed by OSV in collaboration with the herd owner to address compliance issues within a HCP or HMP herd; and
- (b) That establishes[Which sets out] the steps needed to eradicate CWD from a CWD positive herd, to control the risk of CWD in a CDD exposed or CWD-suspect herd, or to prevent introduction of CWD into that herd or any other herd.

(12) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy of cervids.

(13) "Chronic Wasting Disease Herd Certification Program" or "HCP" means a program established by this administrative regulation to determine the CWD status of farmed cervid herds.

(14) "Chronic Wasting Disease Herd Monitoring Program" or "HMP" means a program established by this administrative regulation to monitor farmed cervids in harvesting facilities for CWD.

(15) "Farmed cervid":

(a) Means cervid livestock that are enrolled in a CCWDSI program and are maintained for propagation, selling, trade, or barter or for taking by any harvest or slaughter method; and

(b) Does not mean:—Farmed cervid shall exclude] any cervid that has not originated from and been continuously maintained within a herd that is enrolled in and complies with a HCP or HMP.

(16) "Exposed" means a cervid that is part of a CWD positive herd, or that has been exposed to a CWD-positive cervid or contaminated premises within the previous five (5) years.

(17) "Harvest" means to slaughter or take by hunting farmed cervids for meat and other products.

(18) ["Herd" means a group of cervids that are:

(a) Under common ownership or supervision and are grouped on one (1) or more parts of any single permitted premises (lot, farm, or ranch); or

(b) Under common ownership or supervision on two (2) or more premises which are geographically separated but on which animals have been interchanged or had direct or indirect contact with one another.

(19) "Identification" means a device or means of identification approved for use under this administrative regulation by the State Veterinarian.

~~(19)(20)]~~ "Interstate movement" means movement from another state into Kentucky.

~~(20)(21)]~~ "Intrastate movement" means movement solely within the boundaries of Kentucky.

~~(21)(22)]~~ "Licensed and accredited veterinarian" means a veterinarian:

(a) Approved by the Deputy Administrator of USDA APHIS VS and the State Veterinarian, in accordance with 9 C.F.R. Part 161, to perform functions required by cooperative state-federal cervid disease control and eradication programs; and

(b) Who is licensed to practice veterinary medicine in Kentucky under KRS Chapter 321.

~~(22)(23)]~~ "Move" means to carry, enter, import, mail, ship, or transport; to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive in order to carry, enter, import, mail, ship, or transport; or to allow any of these activities.

~~(23)(24)]~~ "National Uniform Eartagging System" or "NUES" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal.

~~(24)(25)]~~ "Official identification" means a device or means of cervid identification approved for use under 9 C.F.R. Part 55 by APHIS and the state veterinarian to uniquely identify individual cervids.

~~(25)(26)]~~ "Official Chronic Wasting Disease test" or "CWD test" means any test for the diagnosis of Chronic Wasting Disease approved by APHIS and conducted in a laboratory approved by APHIS in accordance with 9 C.F.R. Part 55.

~~(26)(27)]~~ "Official eartag" means an identification tag approved by APHIS that bears an official identification number for individual animals. Beginning March 11, 2014, all official eartags manufactured ~~[shall]~~ bear an official eartag shield. Beginning March 11, 2015, all official eartags applied to animals ~~[shall]~~ bear an official eartag shield. The design, size, shape, color, and other characteristics of the official eartag ~~[will]~~ depend on the needs of the users, subject to the approval of the USDA Administrator. The official eartag ~~is[shall be]~~ tamper-resistant and ~~has[have]~~ a high retention rate in the animal.

~~(27)(28)]~~ "Official identification number" or "OID" means a nationally unique number that is permanently associated with a cervid and complies with[that adheres to one (1) of the following systems]:

~~(a)[(4)]~~ National Uniform Eartagging System (NUES);

~~(b)[(2)]~~ Animal Identification Number (AIN); or

~~(c)[(3)]~~ Any other numbering system approved by the Administrator for the official identification of animals, including a group identification number.

~~(28)(29)]~~ "Office of State Veterinarian" or "OSV" means that office within the Kentucky Department of Agriculture as established in KRS 246.030(4).

~~(29)(30)]~~ "Owner" is defined by KRS 257.010 ~~(14)(11) and means any person owning or leasing from another, or having in charge any cervid.~~

~~(30)(31)]~~ "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

~~(31)(32)]~~ "POL" or "Premises of Origin Location" means the land, farm, or specific parts of a farm where the cervid are physically located.

~~(32)(33)]~~ "Positive" means a cervid ~~[that]~~ has had a diagnosis of CWD confirmed by means of two (2) official CWD tests.

~~(33)(34)]~~ "Premises identification number" or "PIN" means a nationally unique number assigned by a State, Tribal, or[and/or] federal animal health authority to a premises that is, in the judgment of the State, Tribal, or[and/or] federal animal health authority, a geographically distinct location from other premises. The PIN can[may] be used:

(a) In conjunction with a producer's own livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal; and

(b) [It may be used] As a component of a or[group/lot] identification number (GIN).

~~(34)~~~~(35)~~ "Quarantine" means an imposed restriction prohibiting movement of live or dead cervids, or parts thereof, to any location without specific written approval of the State Veterinarian.

~~(35)~~~~(36)~~ "Radio Frequency Identification Device" or "RFID" means a device electronically encoded with a unique identification and that complies with/meets the applicable International Standards Organization (ISO) standards.

~~(36)~~~~(37)~~ "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam.

~~(37)~~~~(38)~~ "USDA" means the United States Department of Agriculture.

Section 2. All Farmed Cervids Shall Be in a Program. Every farmed cervid in Kentucky shall be enrolled in either the Chronic Wasting Disease Herd Certification Program or the Chronic Wasting Disease Herd Monitoring Program. All farmed~~[farm]~~ cervids shall~~[are required to]~~ follow the Chronic Wasting Disease Program Standards from the USDA.

Section 3. Chronic Wasting Disease Herd Certification Program (HCP).

(1) A HCP permit shall be required to participate in the HCP program. A HCP permit shall be/is valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.

(a) The applicant for the HCP shall submit [the following]:

1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;

2. A written statement by a Kentucky-licensed and USDA accredited veterinarian certifying that the veterinarian and the herd owner have a valid veterinarian-client-patient relationship; and

3. A fee of \$150.

(b) The OSV shall grant a HCP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall/will be returned to the applicant without approval. The OSV shall not approve any application if/where the applicant owes fees or fines to the KDA.

(c) A HCP participant whose permit expires prior to renewal shall be subject to the penalties established~~[set forth]~~ in Section 16~~[14]~~ of this administrative regulation.

(2) Annual HCP permit renewal required. Renewal applicants shall:

(a) Submit a complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year;[f.]

(b) Pay a fee of \$135 for herds up to fifty (50) cervids, \$250 for herds between fifty-one (51) and 100, or \$450 for herds containing more than 101~~[fifty – (50)]~~ cervids, for applications submitted prior to December 1, preceding the applicable permit year;[f.]

(c) Pay a fee of \$150 for herds up to fifty (50) cervids, \$275 for herds between fifty-one (51) and 100, or \$500 for herds containing more than 101~~[fifty – (50)]~~ cervids, for applications submitted between December 1 and December 31, preceding the applicable permit year;[f.]

(d) Pay a fee of \$250 for herds up to fifty (50) cervids, \$375 for herds between fifty-one (51) and 100, or \$600 for herds containing more than 101~~[fifty – (50)]~~ cervids, for applications submitted late, January 1 and after of the applicable permit year;and[f.]

(e) Submit a current herd inventory as of the time of application submission, and the most recent reporting documents due to the OSV as required in subsection (3)(c) of this section~~[14(3)]~~ if not already on file with the OSV.

(3) HCP Requirements.

(a) Herds enrolled in this program shall comply with/meet the requirements established~~[set forth]~~ in this section and [the requirements set forth in] 9 C.F.R. Part 55, Subpart B.

1. After an initial permit is issued, the participant shall enroll the

herd into the HCP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.

2. After the first year in the HCP, the participant shall:

a. Conduct the physical inventory and continuously identify cervids as required;

b. Provide any records required by this administrative regulation to the OSV for the cervids~~[that are required in this administrative regulation]~~; and

c. Maintain and complete the provisions of this administrative regulation and a Cervid Herd Plan, if developed.

(b) Cervid identification requirement.

1. Each cervid ~~[six (6) months of age or older]~~ shall have at least two (2) forms of cervid identification prior to or at the time of the annual herd inventory, one (1) of which shall be an official identification and one (1) form shall be a visual type of identification, both of which shall be unique to that cervid within the herd.

2. A cervid of any age shall have official identification before being moved from the premises for any purpose.

(c) Cervid inventory.

1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.

2. a. An annual herd inventory shall be conducted that reviews all records and includes observation of all cervids in an enclosed area, including physical restraint if necessary, to reconcile all visible identification devices with available records. This required inventory shall be conducted in January, February, ~~[or]~~ March, or April.

b. Beginning May~~[April]~~ 1, the herd shall be placed in quarantine and no movement shall be permitted until the physical inventory is completed for those herds not completing a physical inventory January, February, ~~[or]~~ March, or April.

3. The state veterinarian or an APHIS representative may request additional physical inventories to verify herd compliance with program standards.

4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for inspection.

5. Additional herd inventory record inspections and reviews shall be conducted quarterly at the cervid premises or at another location mutually agreed to by the owner and the OSV.

(d) Herd Additions.

1. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP or from a herd in a state with a USDA-approved CWD Certification Program where chronic wasting disease has never been confirmed.

2. ~~[No]~~ New cervids shall not be introduced into the herd unless it has been approved by the State Veterinarian.

3. If cervids are introduced from a herd of lower status, the receiving herd status shall revert to the lower status.

(e) HCP Reporting requirements. The owner shall report to OSV any cervids that escape or disappear and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. The reporting time frame shall be:

a. For cervids that escape or disappear, a report shall be made within forty-eight (48) hours;[f.]

b. For cervids taken by harvest, a report shall be submitted within seven (7) days;[f.]

c. For cervids that die from illness or any other reason, a report shall be submitted within seven (7) days;and[f.]

d. A confirmation that/of no population changes have not occurred in the preceding calendar month if there were no events that required reporting as established in clauses a. through c. of this subparagraph~~[in a, b, or c above]~~. This report shall be submitted to the OSV by the close of business on the first of each month for the activities of the previous calendar month.

2. The report shall include all applicable identification numbers, including the visual tag~~[f.]~~ and the date of the death, disappearance, or escape.

3. Cervids that die or are harvested shall have the required

tissue specimens collected for Chronic Wasting Disease testing except if[where] exempted by 9 C.F.R. 55.23.

4. In accordance with 9 C.F.R. 55.23, an APHIS or OSV representative shall investigate herds that fail to comply with testing requirements and shall evaluate the herd's status.

(f) Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.

(g) An owner maintaining separate herds shall comply with the separate-herd requirements established[set forth] in 9 C.F.R. 55.23.

(h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established[set forth] in KRS 150.730 through 150.735.

(i) The owner shall maintain and provide to the OSV representative upon request the following herd records:

1. Complete inventory of cervids including the OID and any other identification, and the age and sex of each cervid;

2. A record for each purchased or natural addition to the herd including:

a. The OID, species, age, and sex of the cervid;

b. The name and address of the person from whom the cervid was purchased;

c. The address of the herd from which the cervid was purchased;

d. A copy of the CVI that accompanied the cervid for intrastate or interstate movement;

e. Date the purchased addition entered the herd; and

f. Approximate date of birth, if a natural addition;

3. A record of each cervid leaving the herd, including:

a. The date of movement, the name of the person to whom it was shipped, the place to which it was shipped, and a copy of the Certificate of Veterinary Inspection related to the shipment; and

b. A cervid's death[cervid deaths] or harvest on the premises, including the date of death, the apparent cause of death; the cervid's age, sex, and state-federal official individual cervid identification; date and laboratory submitted for CWD testing, if required; and the disposition of the cervid's carcass. If the carcass was removed from the premises, the record shall identify the carcass' destination and recipient;

4. A record of all individual CWD tests that were conducted on cervids in the herd;

5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and

6. All individual identification numbers (from for example, tags and, electronic implants etc.) associated with each cervid.

(j) Herd status levels.

1. Upon[When] a herd being[is] first enrolled in the Herd Certification Program, the herd[it] shall be placed in first-year status, except that if the herd is comprised solely of cervids obtained from herds already enrolled in the Herd Certification Program, the newly enrolled herd shall have the same status as the lowest status of any herd that provided cervids for the herd.

2. If a herd continues to comply with[meet] the requirements of the Herd Certification Program, the herd status shall be upgraded by one (1) year on the anniversary of the program enrollment date.

3. One (1) year after the date [when] a herd was placed in fifth-year status, the herd status shall be changed to "certified". The herd shall remain in "certified" status as long as the herd[it] remains enrolled in the program, if its status is not revoked or suspended in accordance with this administrative regulation or 9 C.F.R. 55.24.

4. A herd owner shall be issued a certificate of "Certified" status upon completing the Herd Certification Program requirements established[set forth] in this administrative regulation.

5. Renewal of a Certified Cervid Herd. A herd shall be[is] certified for twelve (12) months. For continuous certification, adherence to the provisions in this administrative regulation and all other state laws and administrative regulations pertaining to

holding cervids shall be required.

6. The herd enrollment date shall be[is] the latter date off date when the latter of these two events occurred:

a. The physical inventory being[was] completed in accordance with paragraph (c) of this subsection[Section 11(3)(c) of this administrative regulation]; or

b. The initial cervid delivery.

(k) Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within seven (7)[thirty (30)] days of death and collection. If incidents of mass casualty or mortality events are confirmed by the OSV, the OSV may waive the testing requirements for all cervids and instead only require testing based on risk.

(l) USDA Chronic Wasting Disease Program Standards deficiencies may, based on the nature of the deficiencies, require a Cervid Herd Plan in lieu of, or in addition to, administrative penalties.

Section 4. Chronic Wasting Disease Herd Monitoring Program (HMP).

(1) A HMP permit shall be required to participate in the HMP program. A HMP permit shall be[is] valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.

(a) The applicant for the HMP program shall submit the following:

1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;

2. A written statement by a Kentucky-licensed and USDA accredited veterinarian, certifying that the veterinarian and the herd owner have a valid veterinarian-client relationship; and

3. A fee of \$500.

(b) OSV shall grant the HMP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall[will] be returned to the applicant without approval. The OSV shall not approve any application if[where] the applicant owes any fees or fines to the KDA.

(c) HMP participants whose permit expires prior to renewal shall be subject to the penalties in Section 16[14] of this administrative regulation.

(2) Annual HMP permit renewal required. Renewal applicants shall:

(a) Submit a completed Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year.

(b) Pay a fee of \$500.

(c) Submit a current herd inventory as of the moment of application, and the most recent reporting documents due to the OSV as required in subsection (4)(c) of this section[11(3)] if not already on file with the OSV.

(d) The permit shall be effective January 1 through December 31 of each year.

(3) Restrictions and limitations on HMP-enrolled cervids and herds.

(a) A[No] cervid shall not leave an HMP-enrolled herd alive.

(b) A[No] cervid shall not be moved to another HMP-enrolled herd.

(c) A[No] HMP herd, or[nor] any cervid within a HMP-enrolled herd shall not[ever] be eligible to enter the HCP.

(4) HMP Requirements.

(a) Herds enrolled in this program shall comply with[meet] the requirements established[provided] in this section and the requirements in 9 C.F.R. Part 55, Subpart B.

1. After an initial permit is issued, the participant shall enroll the[his] herd into the HMP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent

to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.

2. After the first year in the HMP, the participant shall:

a. Conduct the inventory and continuously identify cervids as required;~~;~~[]]

b. ~~Submit~~^{Provide any} records to the OSV for the cervids that are required in this administrative regulation; ~~and~~[;]~~;~~[]]

c. Maintain and complete the provisions of this administrative regulation and a herd-specific Cervid Herd Plan, if developed.

(b) Cervid identification requirement.

1. Each cervid ~~twelve (12)~~^{six (6)} months of age or older shall have at least two (2) forms of cervid identification, one (1) of which shall be an official identification and one (1) form shall be a visual type of identification, which shall be unique to that cervid within the herd.

2. A cervid of any age shall have official identification before being moved from the premises for any purpose.

3. Any untagged cervid that dies or is harvested shall be officially identified and shall be CWD tested.

(c) Cervid inventory.

1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.

2. An annual herd inventory shall be conducted and submitted to the OSV that reviews all records and documents that would change the baseline herd inventory.

3. The state veterinarian or an APHIS representative may request a physical inventory to verify herd compliance with program standards.

4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for inspection.

(d) Herd Additions. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP, or from a herd in a state with an USDA-approved CWD Certification Program in which^{where} CWD has never been confirmed. If evidence of natural additions are found, a Cervid Herd Plan shall be developed to eliminate future breeding.

(e) HMP Participant Reporting requirements. The owner shall report to the OSV any cervids that escape or disappear, and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. This report shall be submitted to the OSV by the close of business on the first business day of each month for the activities of the previous calendar month.

2. The report shall include applicable cervid identification numbers, including the visual tag~~;~~[]] ~~and~~[;] the date of the death, disappearance, escape~~;~~[]] and the dates ~~[when]~~^{the} CWD tests were submitted for testing.

3. All cervids that die or are harvested shall have the required tissue specimens collected for CWD testing.

4. In accordance with 9 C.F.R. 55.23, an APHIS or OSV representative shall investigate herds that fail to comply with testing requirements and shall evaluate the herd's status.

(f) Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.

(g) An owner maintaining separate herds shall comply with the separate-herds requirements established^{set forth} in 9 C.F.R. 55.23.

(h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established^{set forth} in KRS 150.730 through 150.735.

(i) The owner shall maintain and provide to the OSV representative upon request the following herd records:

1. Complete inventory of cervids, including the OID and any other identification, and the age and sex of each cervid;

2. A record for each purchased or natural addition to the herd, including:

a. The OID, species, age, and sex of the cervid;

b. The name and address of the person from whom the cervid was purchased;

c. The address of the herd from which the cervid was purchased;

d. A copy of the CVI that accompanied the cervid for intra- or interstate movement;

e. Date the purchased addition entered the herd; and

f. Approximate date of birth, if a natural addition;

3. A record of each cervid leaving the herd including~~;~~[]] a record of each cervid that died or was harvested on the premises including:

~~a.~~^{The} The date of death;

~~b.~~^{The} The apparent cause of death;

~~c.~~^{The} The cervid's age ~~and~~[;] sex;

~~d.~~^{and} State-federal official individual cervid identification, date, and laboratory submitted for CWD testing, if required; and

~~e.~~^{The} The disposition of the cervid's carcass. If the carcass left the premises, the record shall identify the carcass destination and recipient;

4. A record of all individual CWD tests that were conducted on cervids in the herd;

5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and

6. All individual identification numbers (from ~~for example~~^{tags} ~~and~~[;] electronic implants~~;~~^{etc.}) associated with each cervid.

(k) Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within thirty (30) days of collection.

Section 5. Testing, Investigation, and Quarantine.

(1) Surveillance testing procedures.

(a) CWD testing shall be in accordance with the procedures established^{set forth} in 9 C.F.R. 55.8.

(b) A diagnosis of CWD by an approved laboratory shall be sent to the National Veterinary Service Laboratory for confirmation.

(c) If required tissues from test eligible cervids are not submitted for laboratory diagnosis by the cervid owner, the state veterinarian shall revoke the permit or implement a mutually agreed upon Cervid Herd Plan.

(2) Investigation of CWD-positive cervids.

(a) An epidemiological investigation in accordance with 9 C.F.R. 55.23 shall be conducted by OSV or APHIS VS for all cervids diagnosed at an approved laboratory CWD positive or suspect.

(b) All CWD-positive herds and all source, exposed, and adjacent herds and the premises where these herds are located shall be investigated epidemiologically by OSV.

(3) Duration of Quarantine. Quarantines issued by the State Veterinarian for CWD in accordance with this administrative regulation shall be removed as established in paragraphs (a) and (b) of this section^{as follows}:

(a) A premises ~~shall not~~^{may} be removed from quarantine ~~until~~^{after} completion of the cervid herd plan and five (5) years of compliance with all provisions of 9 C.F.R. Part 55.

(b) An adjacent or exposed herd or premises may be removed from quarantine only after an epidemiological investigation and by order of the OSV.

Section 6. Certificate of Veterinary Inspection.

(1) A Certificate of Veterinary Inspection shall remain valid for thirty (30) days after date of inspection.

(2) A CVI shall contain^{the following information}:

(a) Identification of each animal recorded on the certificate;

(b) An official identification (OID) for each cervid;

(c) The species, breed, sex, and age of each cervid;

(d) The name and address of the owner or agent shipping the cervid;

(e) The location from which the animal is loaded for movement;

(f) The name and address of the person receiving the cervid;

(g) The location at which the animal will be received;

(h) The purpose of the movement and the total number of

cervids;

(i) All non-applicable data fields ~~[are]~~ crossed out by the USDA-accredited Veterinarian prior to signing;

(j) The movement permit number issued by the OSV ~~is~~;

(k) The following statement or one substantially similar: "I certify as an accredited veterinarian that the above described animals have been inspected by me on this date and that they are not showing signs of infection or communicable disease. The vaccinations and results of tests are as indicated on the certificate. The animals listed on this certificate meet the state of destination requirements and federal interstate requirements"; and

(l) The signature, USDA-accreditation number, and phone number of the veterinarian.

(3) Paper submitted Certificate of Veterinary Inspection;

(a) The first physical page shall be mailed or otherwise delivered to the OSV within seven (7) days of the date it is written.

(b) An exact replica image (a scan in a PDF) of the first page may be submitted in lieu of the first physical page required in paragraph (a) of this subsection ~~[(1)]~~ by submitting via electronic mail within seven (7) days of the date it is written to Statevet@ky.gov.

(c) The second page shall physically accompany the cervid being moved and be readily accessible during the movement.

(d) The third page shall be sent to the Animal Health Official in the state of destination within seven (7) days of the date it is written.

(e) The fourth page shall be retained by the issuing veterinarian for at least five (5) years from the date of issuance.

(f) A legible copy of any supplemental pages shall be stapled to the original and each copy of the CVI.

(4) Electronically submitted CVIs.

(a) Certificate of Veterinary Inspection and Permit ~~[submission requirements]~~ may be submitted via an importable format as allowed by USAHA AHSIS Subcommittee on Data Standards' "standard XML schema document."

(b) Cervids moving with an electronically submitted Certificate of Veterinary Inspection shall be accompanied by a paper copy or have the electronic material stored on a device that may be read immediately upon request.

(5) ~~A/No~~ person shall not issue a CVI bearing the seal of the Commonwealth of Kentucky unless that person is a Kentucky licensed and USDA-accredited veterinarian.

Section 7. Movement Permit.

(1) ~~A/No~~ person shall not move a cervid within or into Kentucky without first obtaining a permit from the OSV at least forty-eight (48) hours prior to the movement.

(2) Proof of required vaccinations or other applicable health practices to ensure disease prevention based on place or origin, as found on the Web site at/website www.kyagr.gov, shall be completed prior to permit issuance. Instructions for a permit may be obtained on the Web site/website.

(3) Movement permit instructions may be obtained by calling OSV at 502-573-0282, Monday through Friday, 8 a.m. EST to 4:30 p.m. EST.

(4) Required testing or vaccination. Required tests and vaccinations shall be performed or verified by a[one-(1) of the following]:

(a) ~~A/~~ Licensed and USDA-accredited veterinarian;

(b) Designee/A representative of the State Veterinarian; or

(c) Designee/A representative of the federal government.

(5) Required tests shall be conducted at no expense to the Commonwealth of Kentucky.

(6) Required laboratory tests shall be conducted in a state-federal approved laboratory.

Section 8. Official Identification and Other Required Identification.

(1) Methods of official identification. An official individual identification shall consist of a set of alphanumeric characters or physical characteristics that/which are uniquely associated with an individual cervid and that/which constitute ~~[the following]~~:

(a) Official USDA NUES; and

(b) An RFID if ~~[all the following apply]~~:

1. The RFID uniquely identifies the animal ~~is~~ and is USDA approved;

2. The RFID is attached to or implanted in the animal;

3. The RFID is registered to a PIN or to a person; and

4. Only one (1) RFID is placed on an animal.

(2) Use of more than one (1) official eartag.

(a) More than one (1) official eartag may be used/is expressly permitted by the OSV for tagging events required by subsection (6) of this section.

(b) The person applying the additional official eartag shall record the following information about the event and maintain the record for at least five (5) years:

1. The date the additional official eartag is added;

2. The reason for the additional official eartag device; and

3. The official identification numbers of the new official eartag and the one or ones[one(s)] already attached to the animal.

(c) An eartag with an Animal Identification Number (AIN) beginning with the 840 prefix (either radio frequency identification or visual-only tag) may be applied to a cervid that is already officially identified with one (1) or more National Uniform Eartagging System tags. The person applying the Animal Identification Number eartag shall record the date the Animal Identification Number tag is added and the official identification numbers of any official eartags and shall maintain those records for at least five (5) years.

(3) Removal or loss of official identification devices.

(a) Official identification devices shall/are intended to provide permanent identification of cervids and ~~[to]~~ ensure the ability to find the source of animal disease outbreaks. Removal of these devices shall be/is prohibited, except as approved by the OSV or a USDA area veterinarian in charge if/when a device needs to be replaced.

(b) If a cervid loses an official identification device and needs a new one:

1. A replacement tag with a different official identification number may be applied. The person applying a new official identification device with a different official identification number shall record the following information about the event and maintain the record for at least five (5) years:

a. The date the new official identification device was added;

b. The official identification number on the device; and

c. The official identification number on the old device, if known.

2. Replacement of a temporary identification device with a new official identification device shall be/is considered to be a retagging event ~~is~~ and shall be noted on the Retag Form.

(4) Circumstances under which OSV may authorize replacement of an official identification device include, for example[but are not limited to]:

(a) Deterioration of the device ~~[such]~~ that ~~[loss of the device appears likely]~~ for the number can no longer be read;

(b) Infection at the site where the device is attached, necessitating application of a device at another location ~~(for example[e.g.], a slightly different location of an eartag in the ear)~~;

(c) Malfunction of the electronic component of a radio frequency identification (RFID) device; or

(d) Incompatibility or inoperability of the electronic component of an RFID device with the management system or unacceptable functionality of the management system due to use of an RFID device.

(e) 982 tags may be replaced with RFID after written permission from the OSV has been given.

(5) Removal of OID without prior written approval of the OSV shall be/is strictly prohibited.

(6) Replacement records required. Any time an official identification device is replaced, as authorized by OSV or the USDA, the person replacing the device shall record the following information about the event and maintain the record for at least five (5) years:

(a) The date on which the previous device was removed;

(b) Contact information for the location where the device was removed;

(c) The official identification number (to the extent possible) on

the device that was removed;

(d) The type of device removed (~~for example~~~~[e.g.]~~, metal eartag ~~or~~~~[i]~~ RFID eartag);

(e) The reason for the removal of the former device;

(f) The new official identification number on the replacement device; and

(g) The type of replacement device that was applied to replace the former device.

(7) Beginning July 1, 2020, RFID OID shall be applied in any initial tagging event, retagging event, or anytime a cervid is restrained by any method, including permitted movements. All imported cervids shall require an RFID at the time of importation beginning July 1, 2020. This RFID shall be cross referenced with any other existing OID at the time of application. Existing OID shall not be ~~[be]~~removed.

Section 9. Premises of Origin Location.

(1) POL information shall be provided by the person seeking the permit for the premises from which the ~~cervids~~~~[cervid]~~ are to be loaded ~~upon~~~~[when]~~ seeking ~~a~~~~[the]~~ movement permit.

(2) The POL of the specific location the cervids were loaded shall include:

(a) A PIN issued by the USDA~~[i]~~ or the Animal Health Official in the state of origin or a LID; and

(2) The owner at the time of movement and that owner's address and contact information.

Section 10. Requirements for Interstate Movement into Kentucky.

(1) ~~A~~~~[No]~~ person shall ~~not~~ move a cervid into Kentucky without first obtaining a CVI and movement permit from the OSV at least forty-eight (48) hours prior to movement and scheduling by the OSV.

(2) An OSV representative, USDA representative, or an USDA-accredited veterinarian shall be present for the unloading of the cervids at the point of destination and shall be responsible for removing the transport seal.

(3) ~~An~~~~[No]~~ entry permit shall ~~not~~ be issued for a cervid that does not have certified status or an equivalent status, as documented by a certificate issued in accordance with 9 C.F.R. 81.4. ~~An~~~~[No]~~ entry permit shall ~~not~~ be issued for a cervid that originated in, or at any time resided, in a state where CWD has been confirmed in either wild or captive cervids.

(4) ~~An~~~~[No]~~ entry permit shall ~~not~~ be issued for a cervid that is not:

(a) Negative to an official tuberculosis test within ninety (90) days of entry; or

(b) Originating from a cervid tuberculosis accredited herd. The herd accreditation number and the last herd test date shall be listed on the CVI.

Section 11. Requirements for Movement Within Kentucky.

(1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement within Kentucky.

(2) ~~A~~~~[No]~~ CVI shall ~~not~~ be required ~~if~~~~[when]~~ the movement is from the same herd to a different permitted premises within the same farm, ~~if~~~~[so long as]~~ the cervid has OID prior to the movement.

(3) Movement ~~shall~~~~[may]~~ not commence until forty-eight (48) hours after the issuance of the permit.

(4) An OSV representative, USDA representative, or an USDA-accredited veterinarian shall be present at the unloading of the cervids at the point of destination for movements to a different premises. For movements ~~established~~ in ~~subsection~~ (2) ~~of this section~~, no ~~a designee~~~~[representative]~~ at time of unloading ~~shall not be~~~~[is]~~ required.

Section 12. Requirements for Movement for Export from Kentucky.

(1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement from Kentucky.

(2) Movement ~~shall~~~~[may]~~ not commence until forty-eight (48)

hours after the issuance of the permit by the OSV and scheduling.

(3) All cervids being exported from Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection.

Section 13. Requirements for Movement Through Kentucky. Cervids moving through Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection. A Kentucky movement permit ~~shall~~~~[is]~~ not ~~be~~ required for direct movement through Kentucky. Persons directly moving cervids through Kentucky may voluntarily obtain a permit from the OSV.

Section 14. Voluntary Accreditation and Certification Programs.

~~(1) Cervid~~~~[1:]~~ owners ~~[of cervids]~~ wishing to seek a voluntary herd certification for brucellosis shall follow the provisions ~~established~~~~[set forth]~~ in APHIS 91-45-16, Brucellosis in Cervidae.

~~(2) Cervid~~~~[2:]~~ owners ~~[of cervids]~~ wishing to seek a voluntary herd accreditation for tuberculosis eradication shall follow the provisions ~~established~~~~[set forth]~~ in APHIS 91-45-011, Bovine Tuberculosis Eradication.

~~(3)~~~~[3:]~~ After the completion of terms in APHIS 91-45-011 or APHIS 91-45-16, the OSV shall issue a certificate~~;~~ for the respective disease~~;~~ that shall be valid in Kentucky for a period of thirty-six (36) months from issuance.

Section 15. Retention of Records.

(1) Intrastate movement or sales documents shall be maintained by both the buyer and the seller for at least five (5) years after the movement of the cervids.

(2) Official identification device distribution records. Any veterinarian who distributes OIDS shall maintain distribution lists and documents for at least five (5) years after issuance.

(3) Interstate movement records and documentation that is required by this administrative regulation shall be maintained for at least five (5) years.

(4) Herd plans, inventory records, and disposition of cervid records shall be maintained for at least five (5) years.

Section 16. Penalties.

(1) Penalties for failure to comply with standards established in this administrative regulation.

(a) OSV shall have the authority to revoke or suspend a herd's permit for the Herd Certification Program or the Herd Monitoring Program if ~~a person~~:

1. ~~[A person]~~Falsifies information on an enrollment application, ~~[or]~~falsifies subsequent information required for continued enrollment, or refuses to produce documents requested by a representative of OSV;

2. ~~[A person]~~Fails to comply with requirements in this administrative regulation on cervid identification, cervid inventory, herd records, testing, or cervid movement;

3. ~~[A person]~~Or facility fails to remain in compliance with KRS Chapters 257 or 150, or any administrative regulation promulgated under the authority thereof;

4. ~~[A person]~~Fails to comply with an instruction from a representative of OSV; or

5. ~~[A person]~~Fails to produce any document require to be created or maintained by this administrative regulation.

(b) In accordance with KRS 257.990, a permit holder ~~shall~~~~[may]~~ be subject to a monetary fine for violation of this administrative regulation.

(2) Penalties for failure to comply with Section 6, 7, 8~~;~~ or 9 of this administrative regulation~~;~~~~[:]~~

(a) In accordance with KRS 150.740(6), a person shall be guilty of a Class D felony upon conviction; and

(b) Upon conviction of a second violation, a person shall be permanently ineligible for renewal of a captive cervid permit.

(3) In accordance with KRS 150.740(7), the Kentucky Department of Fish and Wildlife Resources shall have authority to

seize captive cervids that were imported into the Commonwealth in violation of this administrative regulation or[and] KRS 150.740 and 257.550.

(4) Any person whose permit is revoked shall not reapply to the HCP or HMP programs for a period of five (5) years.

(5) Herds enrolled in HMP or HCP programs whose permit holders fail to reapply for permits on or before the application deadline shall be immediately placed in quarantine. These[Such] herds shall be subject to a physical herd inventory prior to permit issuance. A[No] hunting or harvest shall not[may] take place during the quarantine period. Herds shall be re-enrolled in any program without first paying the initial fee of \$150[,] and the renewal fee as required in either the HCP or HMP program.

(6) Removal of OID from a cervid without written permission of the OSV shall result in the loss of status for all cervids inside the herd.

Section 17.[46.] Material Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application", February 2019;

(b) "Deceased Animal Report", May 2019;

(c) "Herd/Flock Additions", May 2019[Form];

(d) "Herd/Flock Deletions", May 2019[Deletion-Form];

(e) "Retag Form", February 2017[and]

(f) "USDA Chronic Wasting Disease Program Standards", May 2019;

(g) "APHIS 91-45-16, Brucellosis in Cervidae", September 2003; and

(h) "APHIS 91-45-011, Bovine Tuberculosis Eradication", January 1999.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Animal Health, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort, Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

**DEPARTMENT OF AGRICULTURE
Office of Agricultural Marketing
(As Amended at ARRS, May 12, 2020)**

302 KAR 45:010. Ginseng.

RELATES TO: KRS 246.030, 246.650, 246.660, 246.990(9), 260.020, 260.030, 363.610, 50 C.F.R. Part 23

STATUTORY AUTHORITY: KRS 246.660, 260.020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 246.660 requires the Department of Agriculture to administer a program for ginseng in Kentucky. This administrative regulation establishes the ginseng program including licensing and record keeping requirements for dealers, a limited harvesting season, certification procedures, administrative violations and civil penalties, and procedures for the suspension or revocation of a dealer's license.

Section 1. Definitions. (1) "Artificially propagated" means ginseng grown from seeds or rootlets that:

(a)1. Are exempt from the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as implemented by 50 C.F.R. Part 23; or
2. Were derived from cultivated parental stock; and

(b) Were woodsgrown or cultivated.

(2) "Certified ginseng" means ginseng that has been issued an American Ginseng Export Certificate by the department or other governmental certifying organization.

(3) "Cultivated" means ginseng grown under artificial shade and in tilled soil.

(4) "Dealer" means any person or agent of an entity buying ginseng for resale or export.

(5) "Department" means the Kentucky Department of Agriculture.

(6) "Dry ginseng" means ginseng roots that have been dried to remove moisture.

(7) "Export" means to transport, ship, carry, haul, take, or otherwise move ginseng collected in Kentucky outside of Kentucky.

(8) "Ginseng" is defined by KRS 246.650(2).

(9) "Green ginseng" means ginseng roots retaining moisture, not dried.

(10) "Harvest" is defined by KRS 246.650(1).

(11) "Purchase" means to take possession of ginseng in exchange for cash, cash equivalents, or barter.

(12) "Sell" means to transfer possession of ginseng to another person or entity in exchange for cash, cash equivalents, or barter.

(13) "Uncertified ginseng" means ginseng that has been harvested, but has not been issued a certificate for export.

(14) "Wild" means:

(a) Ginseng grown with minimal interference by humans[,]; and under natural canopy in forest or woodlands; or

(b) Mature ginseng plants if they are derived from seeds of wild ginseng that were planted as required by Section 4(3) of this administrative regulation.

(15) "Wild Simulated" means ginseng grown:

(a) From seed that was not planted as required by Section 4(3) of this administrative regulation;

(b) With minimal interference by humans; and

(c) Under natural canopy.

(16) "Woodsgrown" means ginseng[which was]:

(a) Grown under natural canopy; and

(b) Purposefully managed.

Section 2. Dealer License Requirements. A person shall not purchase uncertified ginseng for resale or export unless he or she possesses a Kentucky ginseng dealer's license.

(1) Annual application. All persons or agents of entities purchasing uncertified ginseng in any amount at any time shall file a complete Ginseng Dealer Application for a ginseng dealer's license.

(2) Fee. An annual fee of seventy-five (75) dollars for Kentucky residents or one hundred fifty (150) dollars for non-residents shall be submitted to the department prior to issuance of a ginseng dealer's license. Residency shall be determined by the state of issuance of a driver's license or other government issued photo identification.

(3) Licensing period. A ginseng dealer's license shall be valid from September 1 until August 31 of the following calendar year. The department shall not issue a license if an applicant has outstanding penalties due under Section 9 of this administrative regulation.

(4) A dealer may only be an agent for an entity that is duly authorized to do business in the Commonwealth.

(5) All dealer purchases shall be made using a certified scale as required in KRS 363.610.

Section 3. Record Keeping. (1) Purchase of ginseng. Ginseng dealers shall document all purchases of ginseng on a Ginseng Purchase Form. The KDA shall issue twenty-five (25) forms to each dealer. For additional forms, the dealer shall execute a ["/]Ginseng Purchase Form Log[/" and submit to the KDA prior to additional form issuance. The form shall be legible, shall be completed in its entirety by the dealer, other than the seller's signature or mark, in the presence of the seller, and shall include:

(a) Printed name, signature, or mark and address of the seller;

(b) Month purchased;

(c) Month harvested;

(d) County where harvested;

(e) Weight of purchase or sale;[and]

(f) Designation of ginseng as cultivated, woodsgrown, wild, or wild simulated and whether dried or green at the time of the transaction;and[.]

(g) The seller's[sellers] government issued photo

identification number (drivers license number etc).

(2) Records of sales between dealers. (a) A ginseng dealer purchasing uncertified ginseng from another dealer shall:

1. Complete a Dealer to Dealer Transaction Form to document the purchase; and
2. Obtain from the other dealer Ginseng Purchase Forms completed by the dealer of origin.

(b) The Dealer to Dealer Transaction Form shall include:

1. The month of purchase from a dealer;
2. The weight of the ginseng purchased at the time of the transaction;
3. The signature and registration number of the dealer from whom the purchase is made;
4. The designation of ginseng as cultivated, woodsgrown, wild, or wild simulated and whether dried or green at the time of the transaction; and
5. The form identification numbers from the Ginseng Purchase Forms.

(3) Retention. A person required to maintain records under this section shall retain the forms for a period of at least five (5) [three (3)] years from the end of that year's growing season.

(4) Availability. Records required to be maintained under this section shall be made available to the department upon request.

Section 4. Harvest. (1) Ginseng shall only be harvested between September 1 and December 1 of each year.

(2) Ginseng shall not be harvested that[which] is less than five (5) years old or has less than three (3) five (5) leafed prongs.

(3) Seeds adhering to a plant taken during the season shall be planted within fifty (50) feet of the location of the plant with no tool used other than the finger.

Section 5. Sale of Ginseng. (1) Uncertified green ginseng may only be sold from September 1 of each year until March 31 of the following year.

(2) Uncertified dry ginseng may only be sold from September 15 of each year until March 31 of the following year.

(3) Ginseng dealers may obtain American Ginseng Export Certificates from the department during the ginseng selling season.

(4) A ginseng dealer may sell certified ginseng at any time.

Section 6. Unsold Ginseng. (1) Uncertified ginseng not sold by March 31 of the year after harvest shall be documented by the dealer. It shall be:

(a) Weighed [f] and issued a weight receipt by the department; or

(b) Certified in accordance with Section 7 of this administrative regulation.

(2) A ginseng dealer shall not possess:

(a) Undocumented green ginseng from April 1 through August 31; or

(b) Undocumented dry ginseng from April 1 through September 14.

(3) Uncertified weighed ginseng shall not be sold until the following season's selling period.

Section 7. Certification of Ginseng. (1) Before ginseng harvested in Kentucky can be exported, it shall be certified by the department on an American Ginseng Export Certificate.

(2) Ginseng may only be certified by a dealer holding a Kentucky dealer's license.

(3) To obtain certification, a dealer shall:

(a) File with the department an American Ginseng Export Certificate form;

(b) File with the department associated purchase forms covering the amount of ginseng to be certified in accordance with subsection (5) of this section;

(c) Undergo a random sample inspection of ginseng roots by a department official; and

(d) Pay the certification fee in accordance with subsection (7) of this section.

(4) Export Certificate. The certificate shall include the [following information]:

(a) State of origin;

(b) Serial number of certificate;

(c) Dealer's state license number;

(d) Dealer's shipment number for the harvest season;

(e) Year of harvest;

(f) Designation as dried or green ginseng;

(g) Designation as cultivated, woodsgrown, wild, or wild simulated;

(h) Weight of ginseng;

(i) Statement of state or tribal certifying official that the ginseng was obtained in that state or on those tribal lands in accordance with all relevant laws for that harvest year; and

(j) Name and title of state or tribal certifying official.

(5) Associated purchase forms.

(a) For ginseng purchased from harvesters, the dealer shall file Ginseng Purchase Forms covering the amount of ginseng to be certified.

(b) For ginseng purchased from other dealers, the dealer shall file Dealer to Dealer Transaction Forms and Ginseng Purchase Forms obtained from the dealers of origin covering the amount of ginseng to be certified.

(c) Ginseng Purchase Forms shall be submitted to the department by April 15 of the year after harvest.

(6) The department may obtain samples of roots in order to obtain a root count.

(7) Certification fee. The fee for certification and processing by the department shall be two (2) dollars per pound. Payment shall be made prior to the release of the certification of the ginseng to the dealer, and shall be tendered by check or money orders only. Cash shall not be accepted.

(8) A copy of the certificate shall be:

(a) Enclosed with the shipment that[which] is the subject of the certification;

(b) Retained for a minimum of five (5) [three (3)] years by the licensed ginseng dealer; and

(c) Retained by the certifying agent of the department for seven (7) years.

Section 8. Prohibition on Uncertified Non-Kentucky Grown Ginseng. Ginseng that is harvested outside the border of Kentucky and not certified in its state of origin shall not enter Kentucky.

Section 9. Violations and Penalties. (1) The following acts shall be considered a violation of this administrative regulation, and each violation shall carry a civil penalty of \$100 to \$1,000 dollars:

(a) Harvesting ginseng out of season;

(b) Selling uncertified ginseng out of season;

(c) Possessing underage ginseng;

(d) Seed collection, not relocating within fifty (50) feet of parent;

(e) Purchasing uncertified ginseng out of season;

(f) Falsification of a Ginseng Dealer Application, a Ginseng Purchase Form, a Dealer to Dealer Transaction Form, or an American Ginseng Export Certificate;

(g) A dealer purchasing ginseng from a harvester without accurately documenting the purchase on a Ginseng Purchase Form in accordance with Section 3(1) of this administrative regulation;

(h) A dealer purchasing uncertified ginseng from another dealer without:

1. Accurately documenting the purchase on a Dealer to Dealer Transaction Form in accordance with Section 3(2) of this administrative regulation; or

2. Obtaining from the other dealer Ginseng Purchase Forms completed by the dealer of origin;

(i) Reselling or exporting ginseng without a dealer's license;

(j) A dealer failing to certify or obtain weight receipt of ginseng at the end of the uncertified ginseng selling season;

(k) Transporting or exporting of uncertified ginseng in or out of Kentucky; [and]

(l) Possession of undocumented ginseng by a ginseng dealer out of season; [-]

(m) Acting as a dealer or agent of a dealer without a license;

and

(n) Purchasing uncertified ginseng out of season.

(2) Persons who commit the same violation within thirty (30) days of being cited for the first violation shall be assessed up to double the civil penalty assessed in Section 9(1) of this administrative regulation, not to exceed \$1,000.

(3) Persons who commit a third same violation within sixty (60) days of being cited for the first violation shall be assessed up to triple the civil penalty assessed in Section 9(1) of this administrative regulation, not to exceed \$1,000.

(4) This section shall not prohibit the department from suspending or revoking a license or certificate at any time in accordance with Section 10 of this administrative regulation.

(5) A person cited with a violation may contest the violation by requesting a hearing in writing within ten (10) days of receiving the notice of violation. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 10. Ginseng Dealer License Suspension or Revocation. (1) A ginseng dealer may contest a proposed license suspension or revocation by requesting a hearing in writing within ten (10) days of receiving the notice of suspension or revocation. The hearing shall be conducted in accordance with KRS Chapter 13B.

(2) If a hearing is not requested as provided for in subsection (1) of this section, the department may suspend or revoke the license once the ten (10) day hearing request filing period has passed.

(3) The department may suspend a license for up to one calendar year, or revoke a license after the provisions of subsections (1) and (2) of this section have been satisfied.

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

- (a) "Ginseng Dealer Application", 12/2019 [7/13/2014];
- (b) "American Ginseng Export Certificate", 8/2016 [7/13/2014];
- (c) "Dealer to Dealer Transaction Form", 12/2019 [7/13/2014];

[and]

- (d) "Ginseng Purchase Form", 12/2019 [7/13/2014];
- (e) "Ginseng Purchase Form Log", 12/2019; and
- (f) "Weight Receipt", 08/2015.

(2) These materials may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Plant Marketing[Value-Added Foods], 111 Corporate Drive[100 Fair Oaks, Suite 252], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort, Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

**ENERGY AND ENVIRONMENT CABINET
Department for Natural Resources
Division of Conservation
(As Amended at ARRS, May 12, 2020)**

416 KAR 1:010. Administration of Kentucky Soil Erosion and Water Quality Cost-share Fund.

RELATES TO: KRS 146.080- 146.115[146.121], 224.71-100-224.71-140, ~~[KRS]262.010 – 262.660~~ [Chapter 262]

STATUTORY AUTHORITY: KRS 146.110-146.115[146.121]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.110 ~~through to~~ 146.115[146.121] authorize the Soil and Water Conservation Commission to promulgate administrative regulations governing administration of the Kentucky Soil Erosion and Water Quality Cost-share Fund, ~~which~~ The fund provides cost-share assistance to persons engaged in agricultural and silvicultural production for implementation of best management practices for ~~such~~ purposes such as providing cleaner water through the reduction in the loading of sediment, nutrients, and pesticides in

Kentucky streams, rivers, and lakes; ~~and~~ reducing the loss of topsoil vital to the sustained production of food and fiber; and preventing surface water and groundwater pollution. This administrative regulation establishes criteria for participation in that cost-share program.

Section 1. Definitions.

(1) "Agricultural or silvicultural production" means any farm operation on a tract of land, including all income-producing improvements and farm dwellings, together with other farm buildings and structures incident to the operation and maintenance of the farm, used for the production of livestock, livestock products, poultry, poultry products, milk, milk products, or silviculture products, or for the growing of crops such as ~~fruits and vegetables~~ but not limited to, tobacco, corn, soybeans, small grains, fruit, and vegetables; or devoted to and meeting the requirements and qualifications for payments to agriculture programs under an agreement with the state or federal government.

(2) "Agriculture water quality plan" is defined by KRS 224.71-100(10) ~~means a document incorporating the conservation plan, compliance plan, or forest stewardship management plan as necessary to prevent groundwater and surface water pollution from an agricultural or silvicultural production~~.

(3) "Animal waste" means feces, urine, or other excrement, digestive emission, urea, or similar substance emitted by animals ~~(including any form of livestock, poultry, or fish). This includes animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material typically found with this waste.~~

(4) "Applicant" means a person who applies for cost-share assistance from the Kentucky Soil Erosion and Water Quality Cost-share Fund.

(5) ~~(4)~~ "Available funds" means moneys budgeted, unobligated, and distributed to the commission for the purposes of KRS 146.115 ~~approved by the commission for cost-share assistance~~.

(6) ~~(5)~~ "Best management practices" means, for agricultural or silvicultural production, the most effective, practical, and economical means of reducing and preventing water pollution provided by the United States Department of Agriculture Natural Resources Conservation Service and the Soil and Water Conservation Commission. ~~[Best management practices shall establish a minimum level of acceptable quality for planning, siting, designing, installing, operating, and maintaining these practices.]~~

(7) ~~(6)~~ "Case file" means the collection of materials that are assembled and maintained for each application for cost-share assistance.

(7) "Compliance plan" means a conservation plan containing best management practices developed for persons engaged in agricultural production by the United States Department of Agriculture Natural Resources Conservation Service in conjunction with local conservation districts as required for eligibility under the Federal Food Security Act.]

(8) "Conservation district" or "district" is defined by KRS 262.010(3) ~~means a subdivision of state government organized pursuant to KRS Chapter 262 for the specific purpose of assisting persons engaged in agricultural or silvicultural production and land users in solving soil and water resources problems, setting priorities for conservation work to be accomplished, and coordinating the federal, state, and local resources to carry out these programs.~~

(9) "Conservation plan" means a plan describing best land management practices, including an installation schedule and maintenance program, which when completely implemented, will improve and maintain soil, water, and related plant and animal resources of the land in accordance with the Natural Resources Conservation Service Technical Guide or developed by others in accordance with the Natural Resources Conservation Service Technical Guide and in cooperation with a conservation district.]

(9) ~~(10)~~ "Cost-share assistance" means cost-share funds awarded by the commission from the Kentucky Soil Erosion and Water Quality Cost-share Fund.

(10) ~~(14)~~ "District supervisor" means a member of the governing board of a conservation district.]

(12) "Ecosystem-based assistance process" means a specific application of a planning process that considers the integration of ecological, economic, and social factors to maintain and to enhance the quality of the environment to best meet current and future needs, which may include the following components:

(a) Inclusion of private land and public land within the watershed;

(b) Identification of and suggested solutions for various resource problems within the watershed;

(c) Establishment of opportunities for public participation in plan development and implementation;

(d) Inclusion of mechanisms for developing a comprehensive resource plan for the watershed and for reporting conservation accomplishments within the watershed;

(e) Identification and prioritization of local resource concerns, and inclusion of mechanisms to address these concerns within the watershed; and

(f) Development within current county conservation district boundaries with coordination of plans across county lines for protection of the watershed.

(11)(13) "Eligible land" means land on which agricultural or silvicultural production is being conducted.

(14) "Eligible person" means a person eligible to apply for cost-share assistance.

(15) "Eligible practices" means those best management practices that have been approved by the commission.

(16) "Forest stewardship management plan" means a plan developed by the Environmental and Public Protection Cabinet's Division of Forestry or other cooperating entities which establishes practices for a person engaged in an agricultural or silvicultural production to manage forest lands in accordance with sound silvicultural and natural resource principles.

(12)(17) "Groundwater" means subsurface water occurring in the zone of saturation beneath the water table and any perched water zones below the B soil horizon.

(13)(18) "~~Obligated funds~~" means ~~moneys from a district's portion of the Kentucky Soil Erosion and Water Quality Cost-share Fund allocated by the commission and committed to an applicant after final approval of the application for cost-share assistance.~~

(14)(19) "Performance and maintenance agreement" means a written agreement between an eligible person and the district in which the eligible person agrees to implement and to maintain the best management practices for which cost-share assistance is being awarded.

(14)(15)(20) "Program year" means the period from July 1 to June 30.

(15)(16)(24) "Soil and Water Conservation Commission" or "commission" means the commission established by KRS 146.090.

(16)(17)(22) "Surface water":

(a) Means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters, marshes, and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface; and

(b) Does not mean effluent ditches and lagoons used for waste treatment that[which] are situated on property owned, leased, or under valid easement by a permitted discharger [shall not be considered to be surface waters of the Commonwealth].

(17)(18)(23) "Water priority protection region" means an area specifically delineated where water pollution from agricultural or silvicultural production has been scientifically documented.

(18)(19)(24) "Watershed" means all the area from which all drainage passes a given point downstream.

Section 2. Eligibility of Persons. (1) Eligible persons. Persons conducting agricultural or silvicultural production shall be eligible to receive cost-share assistance for best management practices if [the following conditions are met]:

(a) The person has [had] prepared [a conservation plan, a compliance plan, a forest management or forest stewardship plan, or] an agriculture water quality plan; and

(b) The person agrees to perform and to maintain best management practices for the period of time established[specified] by the commission.

(2) Ineligible persons. A person engaged in agricultural or silvicultural production shall not be eligible for further cost-share assistance if the applicant has: [who has]

(a) Failed or refused to comply with agriculture water quality planning requirements and has been deemed a "bad actor" pursuant to [under] KRS 224.71-130; or

(b) Failed to comply with practice lifespans or complete previous cost-share projects within five (5) years prior to the application date. [shall lose eligibility for further cost-share assistance.]

Section 3. Eligible Best Management Practices. (1) Purposes of best management practices. The Kentucky Soil Erosion and Water Quality Cost-share Funds shall be used to provide cost-share assistance for development and implementation of best management practices for [the following purposes]:

(a) Providing cleaner water through the reduction in sediment loading of Kentucky streams, rivers, and lakes;

(b) Reducing the loss of topsoil vital to sustain production of food and fiber; and

(c) Preventing surface water and groundwater pollution.

(2) Approved best management practices. Complete listings of eligible best management practices are contained in [the document titled "The 2019 Kentucky Soil and Water Quality Cost-Share Practice Handbook"/] [entitled "Kentucky Soil Erosion and Water Quality Cost-share Manual", incorporated by reference in Section 13 of this administrative regulation.

(3) A district may request the commission's approval of best management practices not included in the commission's list of approved practices if those best management practices solve a problem unique to the requesting district and conform to one or more of the purposes listed in subsection (1) of this section. A request shall be filed in writing with the commission in time for the commission to review the request and to notify the district of its decision prior to the advertisement of the program for the next program year. Conservation practices may be included in a district's list of eligible practices offered for cost-share assistance only if approved by the commission in accordance with this subsection.]

Section 4. Solicitation of Applications. (1) The commission shall establish for each program year a deadline for submittal of applications for cost-share assistance.

(2) Each conservation district shall provide an opportunity for persons within the district to submit applications in time for the next program year by advertising the availability of cost-share assistance in appropriate news media, such as electronic media, local newspapers, local radio stations, and any newsletters published by the district.

Section 5. Contents and Completion of Applications. (1) Contents of application. An applicant shall submit to the conservation district in which the eligible land is located the Kentucky Soil and Water Cost Share Program[an] [the] Application [incorporated by reference in Section 13 of this administrative regulation], found at <https://dep.gateway.ky.gov/eForms/Main/Forms.aspx>, in order to apply for cost-share assistance. The applicant shall include with [append to] the application:

(a) An [Any conservation plan, compliance plan, forest stewardship plan, or] agriculture water quality plan in effect for the eligible land that is compliant with KRS 224.71-120 and updated to be current with the Statewide Agriculture Water Quality Plan authorized by KRS 224.71-110; and

(b) If known to the applicant or as made in consultation with the appropriate technical agency, the anticipated total cost of the best management practice to be implemented and the percentage, if any, of the cost that[which] the applicant proposes to bear, which percentage shall not be less than minimums established by the commission for the particular best management practice.

(2) An applicant ~~[that is]~~ applying for cost-share funds for best management practices involving nutrient storage shall include a nutrient management plan as ~~established~~~~[detailed]~~ in the Statewide Agriculture Water Quality Plan.

(3)(a) Completion of applications. An applicant who does not have ~~an~~ [a conservation plan, compliance plan, forest stewardship plan, or] agriculture water quality plan ~~that is compliant with KRS 224.71-120 and updated to be current with the Statewide Agriculture Water Quality Plan authorized by KRS 224.71-110,~~ in effect for the eligible land~~[that is compliant with KRS 224.71-120 and updated to be current with the Statewide Agriculture Water Quality Plan authorized by KRS 224.71-110].~~ or who has not determined the anticipated total cost of the requested best management practice may request technical assistance from the conservation district in developing a best management practices plan and determining costs.

(b) ~~If~~~~[When]~~ the best management practices plan has been developed and the anticipated total cost determined, the application ~~shall~~~~[will]~~ be reviewed in accordance with the eligibility and prioritization criteria established by this administrative regulation.

Section 6. Review of Applications. (1) Each conservation district shall review and determine the eligibility of all applications ~~[which were]~~ submitted to the district by the established deadline.

(2) The board of supervisors for the district shall vote upon eligibility at a meeting conducted in accordance with the Open Meetings Law, KRS 61.805 to 61.850, and record the outcome in the minutes of the board of supervisors for that meeting.

(3) A district supervisor who is also an applicant for cost-share assistance shall not vote on eligibility.

(4) The district shall forward the applications to the commission within fifteen (15) days after determining eligibility. ~~[A district may submit both individual applications for eligible lands within the district and watershed-based applications for eligible lands within the district.]~~

Section 7. Prioritization of Applications. The commission shall prioritize the applications of persons determined by the conservation districts to be eligible for cost-share assistance and shall make the final award of cost-share assistance.

(1) Classification of priorities. Applications shall be prioritized based on ~~[the following criteria]:~~

(a) Applicants conducting agricultural or silvicultural production needing animal waste management systems where animal waste has been identified by the Energy and Environment [Environmental and Public Protection] Cabinet as a water pollution problem; ~~and~~

(b) Applicants who are members of agricultural districts; ~~and~~

(c) Applicants who have implemented a conservation plan, a compliance plan, an agriculture water quality plan, or a forest stewardship plan, ~~and are part of a watershed where the ecosystem-based assistance process is ongoing].~~

(2) Applications within each classification ~~established~~~~[identified]~~ in subsection (1) of this section shall be prioritized based on ~~[the following criteria]:~~

(a) ~~1.~~ Presence of water pollution, based on:

~~a.~~~~[4.]~~ Notification by a local, state, or federal agency that the applicant's agricultural or silvicultural production has caused or contributed to water pollution;

~~b.~~~~[2.]~~ Determination of the Energy and Environment [Environmental and Public Protection] Cabinet that a surface water affected by the applicant's agricultural or silvicultural production is not meeting its designated use;

~~c.~~~~[3.]~~ Identification by the Energy and Environment [Environmental and Public Protection] Cabinet of a water priority protection region encompassing the location of the applicant's agricultural or silvicultural production; ~~or~~~~[and]~~

~~d.~~~~[4.]~~ Other documentation of water pollution, such as through a biological assessment; or

~~2.~~~~[5.]~~ Potential for development of water pollution from agricultural or silvicultural production in the watershed in which the applicant's agricultural or silvicultural production is being conducted;~~[.]~~

(b) Types of water pollutants~~[, based on]:~~

1. Animal waste;

2. Sediment run-off;

3. Nutrient loading; or

4. Pesticide application, storage or disposal;~~[.]~~

(c) Proximity of pollutant to groundwater or surface water;

(d) Magnitude of water pollution; and

(e) Location in a priority watershed as ~~established~~~~[identified]~~ by the Agriculture Water Quality Authority or Division of Water including a source water protection area. ~~[designated water quality planning area, based on the existence of:~~

1. An ecosystem-based assistance process;

2. A Federal Clean Water Act Section 319 demonstration area;

3. A wellhead protection area; or

4. An agriculture water priority protection region.]

Section 8. Allocation of Cost-share Assistance.

(1) The available funds received by the commission for the cost-share program shall be ~~held by the Kentucky Division of Conservation and disbursed to the conservation districts based on requests from the districts approved by the commission after a practice has been completed and all paperwork has been signed as complete and submitted for payment.~~ ~~[allocated to the conservation districts based on requests from districts approved by the commission prior to each program year.]~~ The district shall ~~be granted~~ ~~[receive]~~ a share of the Kentucky Soil Erosion and Water Quality Cost-share Fund ~~that shall be held by the Kentucky Division of Conservation based on the commission's approval of an initial district request~~~~[based on the objectives identified in Section 8 of this administrative regulation, and]~~ in accordance with the prioritization system established in Section 7 of this administrative regulation.

(2) Any funds ~~granted~~ ~~[allocated]~~ by the commission ~~and distributed by the Kentucky Division of Conservation~~ to a district for a practice that results in overpayment ~~[program year]~~ shall revert to the commission if the district has not ~~received prior permission to obligate the funds to another applicant~~ ~~[obligated the funds]~~ within one (1) year from ~~receipt~~ ~~[allocation]~~.

(3) The commission shall retain ten (10) percent of the ~~annual appropriation~~ ~~[available funds]~~ in a contingency fund to be allocated to assist persons engaged in agricultural or silvicultural productions and implementing the agriculture water quality program mandated by Subchapter 71 of KRS Chapter 224~~[KRS 224.74]~~.

Section 9. Design of Best Management Practices. Once cost-share assistance has been awarded by the commission, the local district shall designate a technician to develop final design and layout for the approved best management practices.

Section 10. Execution of Performance and Maintenance Agreements. After an application has been awarded cost-share assistance and before the applicant has ~~received~~ ~~[receives]~~ payment of the cost-share funds, the applicant and the conservation district shall execute a performance and maintenance agreement.

(1) Requirements of performance and maintenance agreements. The performance and maintenance agreement shall require the applicant to ~~comply with paragraphs (a) through (d) of this subsection.~~~~[meet the following requirements:]~~

(a) The applicant shall agree to perform those best management practices approved in accordance with this administrative regulation;~~[.]~~

(b) The applicant shall agree to maintain approved best management practices for the expected life of each practice agreed upon in the performance and maintenance agreement;~~[.]~~

(c) Upon completion of the approved best management practice, the applicant shall notify the district that the practice has been installed and shall provide to the district for its inspection all vouchers, bills, and receipts associated with the practice;~~[.]~~~~and]~~

(d) The applicant shall agree that at the time of transfer of ownership of land where a best management practice has been applied using cost-share assistance and the expected life assigned

the practice has not expired, the applicant shall execute a contract with the transferee requiring continuation of those practices until completed.

(e) Approved applicants shall complete the practice within one (1) year from the date of approval. Upon request, the Division of Conservation shall grant a six (6) month extension per approved application. After two (2) extensions have been granted and expired, the landowner shall forfeit the right to the funds.[-;]

(e) The applicant shall agree that if the applicant destroys the best management practice installed or voluntarily relinquishes control or title to the land on which the installed practice has been established and the new owner, heir, or operator does not agree in writing to properly maintain the practice for the remainder of its specified lifespan, the applicant shall refund all or part of the cost-share assistance, as determined by the district; and

(f) The applicant shall agree that if the applicant does not maintain the approved best management practices on the schedule provided in the plan the applicant shall forfeit the cost-share assistance, and the commission shall be authorized to recover the funds disbursed.]

(2) Effect of performance and maintenance agreement. Requirements for performance and maintenance of best management practices applied using cost-share assistance shall be established in the performance and maintenance agreement and reviewed with the applicant at the time of application submittal and before completion of a certification of practices.

(3) Refund of funds disbursed. (a) The district shall [may] require a refund of cost-share assistance funds if the district determines: [when]

1. An approved best management practice has not been [performed or] maintained in compliance with approved design standards and specifications for the practice during its expected life as agreed in the performance and maintenance agreement; or[-]

2. a. The applicant voluntarily relinquishes control or title to the land on which the best management practice that was installed using cost-share funds and the new owner, heir, or operator does not agree in writing to properly maintain the practice for the remainder of the[its specified] lifespan.

b. If the applicant voluntarily relinquishes control or title to the land on which the best management practice that was installed using cost-share funds pursuant to clause a. of this subparagraph, then the applicant shall only be responsible for refunding to the district the amount of funds prorated on the number of years remaining in the best management practice maintenance agreement.

(b)1. If the district determines that the applicant shall refund the amount of the cost-share, the applicant shall have thirty (30) days to make payment to the district. The district may grant the applicant an extension of time to make the refund upon the submission of a written request by the applicant.

2. If the applicant fails to timely refund the amount of the cost-share, the district shall refer the matter to the commission.

3. If the district declines to seek a refund, the district shall state its reason for not doing so and notify the commission and the applicant. The commission shall[may] review the matter to determine whether **or not** to seek a refund.

4. If the commission becomes aware of a situation [described]n paragraphs [subparagraphs (3)](a)1. or [(3)](a)2. of this subsection, and the district fails to review the matter, the commission shall conduct a review of the matter and determine whether **or not** to seek a refund.

5. The commission shall be authorized to recover the amount of the cost-share by initiating a legal action in the Franklin Circuit Court.

(4) Application for future cost-share assistance. Best management practices that have been successfully completed and that[which] later fail as the result of floods, drought, or other natural disasters, and not the fault of the applicant, shall not prohibit the applicant from applying for additional cost-share assistance to restore the practices to their original design standards and specifications.

(5) Certification. Upon notification by the applicant that the

approved best management practice has been completed and before disbursement of funds from the district, the appropriate technical agency shall certify to the district that the practice has been installed in accordance with [the document titled “]The 2019 Kentucky Soil and Water Quality Cost-Share Practice Handbook[”].[entitled “Kentucky Soil Erosion and Water Quality Cost-share Manual,” incorporated by reference in Section 13 of this administrative regulation.]

(6) Limitations on awards.

(a) Cost-share assistance awarded to an applicant shall be limited to a maximum of seventy-five (75) percent of the actual cost, not to exceed an amount approved by the commission, for each best management practice, with the assisted applicant providing twenty-five (25) percent of the cost, which may include in-kind support, with a maximum of [\$7,500 per year to each applicant for all practices except for the more expensive animal waste storage practices which have a maximum of] \$20,000 per year [for each applicant].

(b) An applicant shall only submit one application per program year.

(c) Cost-share assistance may be used with federal or local cost-share funds on the same practices [ifas long as] the total cost share payment does not exceed seventy-five (75) percent of the practice cost.

(d) Cost-share assistance shall not be awarded to best management practices in progress prior to cost-share approval or previously-installed practices by the applicant.

Section 11. Reporting and Accounting.

(1) District reporting and accounting. A district shall [conduct the following reporting and accounting procedures].

(a) Maintain a control ledger showing the current approved applications [request] to the commission and cost share approved amounts [funds obligated] for approved applications, based on estimated cost;

(b) Submit a quarterly report to the commission indicating any [the] unobligated balance of allocated and disbursed cost-share funds as shown on each ledger;

(c) Submit an annual progress report to the commission showing accomplishments “to date” for the current program year; and

(d) Assemble case files for each approved application, filed by program year and accessible for public inspection, containing:

1. The approved application for allocated funds;
2. A copy of the estimated cost sheet;
3. Certification of practice completion;
4. Applicant's vouchers, bills, or receipts;
5. Final designs for best management practices;
6. The performance and maintenance agreement;
7. Any amendments to the performance and maintenance agreement; and
8. A map locating the practices.]

(2) Commission reporting and accounting. The commission shall conduct the following reporting and accounting procedures:

(a) Receive and maintain reports from districts showing the unobligated balance of allocated and disbursed cost share funds as shown on each ledger; and

(b) Submit consolidated quarterly reports based on the reports from districts on the unobligated balance of the Kentucky Soil Erosion and Water Quality Cost-share Fund.]

Section 12. Appeals.

(1) Procedure for filing appeal. An applicant aggrieved by a decision of the commission denying an application or limiting the amount of financial assistance[assurance] may file a written appeal with the commission. The appeal shall be filed within thirty (30) days of the decision and shall state[set forth] the basis for the appeal.

(2) Procedure for hearing appeal.

(a) The commission shall notify the applicant and the local district that they may appear before the commission and present testimony or written documentation on the issues presented by the appeal.

(b) The commission shall have sixty (60) days in which to make a decision and to notify the local district and the applicant.

(3) Review of final decision. The decisions of the commission may be appealed to the Franklin Circuit Court.

Section 13. Incorporation by Reference. (1) "The 2019 Kentucky Soil and Water Quality Cost-Share Practice Handbook", 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., Eastern Standard Time, [The documents entitled "Kentucky Soil Erosion and Water Quality Cost-share Manual", dated March 1, 1995 is hereby incorporated by reference. It is available for public inspection and copying, subject to copyright law, at the office of the Soil and Water Conservation Commission, 691 Teton Trail, Frankfort, Kentucky, between the hours of 8 a.m. and 4:30 p.m., Mondays through Fridays, excluding state holidays.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Conservation, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., Eastern Standard Time, [The documents entitled "Kentucky Soil Erosion and Water Quality Cost-share Manual", dated March 1, 1995 is hereby incorporated by reference. It is available for public inspection and copying, subject to copyright law, at the office of the Soil and Water Conservation Commission, 691 Teton Trail, Frankfort, Kentucky, between the hours of 8 a.m. and 4:30 p.m., Mondays through Fridays, excluding state holidays.]

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone (502) 782-6720, fax (502) 564-4245, email michael.mullins@ky.gov.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, May 12, 2020)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Incorporation by Reference. (1) "Department of Corrections Policies and Procedures", May 12/January [November] [13], 2020[2018], are incorporated by reference. Department of Corrections Policies and Procedures include:

1.2	News Media (Amended 6/10/14)
1.4	The Monitoring and Operation of Private Prisons (Amended 5/15/08)
2.1	Inmate Canteen (Amended 2/26/16)
2.12	Abandoned Inmate Funds (Amended 4/12/18)
3.1	Code of Ethics (Amended 12/10/13)
3.9	Student Intern Placement Procedure (Amended 11/7/16)
3.10	Appearance and Dress for Nonuniformed Staff (Amended 1/13/20[4/12/18])
3.11	Drug Free Workplace Employee Drug Testing (Amended 12/10/13)
3.14	Employee Time and Attendance Requirements (Amended 6/14/16)
3.17	Uniformed Employee Dress Code (Amended 1/12/18)
3.22	Staff Sexual Offenses (Amended 12/10/13)
3.23	Internal Affairs Investigation (Amended 11/13/18)
5.1	Research, Surveys and Data Requests (Amended 5/12/20[1/13/20][3/14/18])
5.3	Program Approval, Evaluation and Measurement (Amended 1/13/20[6/9/15])
6.1	Open Records Law (Amended 5/14/07)
6.2	Inmate Record (Added 11/7/16)
8.2	Fire Safety (Amended 3/14/14)

8.7	Notification of Critical Incident[Extraordinary Occurrence] (Amended 5/12/20[1/13/20][3/14/14])
9.4	Transportation of Inmates to Funerals or Bedside Visits (Amended 6/9/15)
9.6	Contraband (Amended 2/26/16)
9.8	Search Policy (Amended 3/14/18)
9.13	Transport to Court - Civil Action (Amended 07/09/07)
9.18	Informants (Amended 9/13/10)
9.19	Found Lost or Abandoned Property (Amended 10/14/05)
10.2	Special Management Inmates (Amended 4/11/17)
10.3	Safekeepers and Contract Prisoners (Amended 1/12/18)
11.2	Dietary Procedures and Compliance (Amended 1/12/17)
11.4	Alternative Dietary Patterns (Amended 1/12/17)
13.1	Pharmacy Policy and Formulary (Amended 1/15/15)
13.2	Health Maintenance Services (Amended 2/26/16)
13.3	Medical Alert System (Amended 3/14/14)
13.5	Advance Healthcare Directives (Amended 6/14/16)
13.6	Sex Offender Treatment Program (Amended 11/7/16)
13.7	Involuntary Psychotropic Medication (Amended 10/14/05)
13.8	Division of Addiction Services Substance Abuse Program (Amended 5/12/20[1/13/20][10/12/12])
13.9	Dental Services (Amended 10/14/05)
13.10	Serious Infectious Disease (Amended 3/14/14)
13.11	Do Not Resuscitate Order (Amended 8/9/05)
13.12	Suicide Prevention and Intervention Program (Added 8/25/09)
13.13	Behavioral Health Services (Amended 5/12/20[1/13/20][11/7/16])
13.15	Inmate Observer Program (Added 8/12/16)
14.1	Investigation of Missing Inmate Property (Amended 10/14/05)
14.2	Personal Hygiene Items (Amended 8/20/13)
14.3	Marriage of Inmates (Amended 1/12/17)
14.4	Legal Services Program (Amended 3/14/14)
14.5	Claims Commission (Amended 4/12/18)
14.6	Inmate Grievance Procedure (Amended 1/13/20[3/14/18])
14.7	Sexual Abuse Prevention and Intervention Programs (Amended 4/12/18)
14.8	Lesbian, Gay, Bisexual, Transgender, and Intersex Offenders (Amended 1/12/18)
15.1	Hair, Grooming and ID Card Standards (Amended 1/12/18)
15.2	Rule Violations and Penalties (Amended 8/12/16)
15.3	Meritorious Good Time (Amended 1/13/20[11/13/18])
15.4	Program Credit (Amended 5/12/20[1/13/20][6/12/12])
15.5	Restoration of Forfeited Good Time (Amended 5/12/20[1/13/20][2/26/16])
15.6	Adjustment Procedures and Programs (Amended 3/14/18)
15.7	Inmate Accounts (Amended 1/13/20[1/12/18])
15.8	Possession or Use of Unauthorized Substance and Substance Abuse Testing (Amended 4/12/18)
16.1	Inmate Visits (Amended 4/11/17)
16.2	Inmate Correspondence (Amended 1/13/20[11/7/16])
16.3	Inmate Access to Telephones (Amended 10/12/12)
16.4	Inmate Packages (Amended 8/12/16)
16.5	Video Visitation (Added 8/12/16)
17.1	Inmate Personal Property (Amended 3/14/18)
17.2	Assessment Center Operations (Amended 5/12/20[1/13/20][6/9/15])
17.3	Controlled Intake of Inmates (Amended 3/14/14)
17.4	Administrative Remedies: Sentence Calculations (Amended 8/12/16)
18.1	Classification of the Inmate (Amended 3/14/18)
18.2	Central Office Classification Committee (Amended 1/12/18)
18.3	Confinement of Youthful Offenders (Added 6/9/15)

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18.5	Custody Level and Security (Amended 11/13/18)
18.7	Transfers (Amended 5/13/16)
18.9	Out-of-state Transfers (Amended 2/26/16)
18.11	Placement for Mental Health Treatment in CPTU or PCU (Amended 6/14/16)
18.12	Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (Amended 2/15/06)
18.13	Population Categories (Amended 4/12/18)
18.15	Protective Custody (Amended 1/12/18)
18.16	Information to the Parole Board (Amended 1/13/20[4/42/48])
18.17	Interstate Agreement on Detainers (Amended 07/09/07)
18.18	International Transfer of Inmates (Amended 5/14/07)
19.1	Governmental Services Program (Amended 10/12/12)
19.2	Sentence Credit for Work (Amended 2/26/16)
19.3	Inmate Wage/Time Credit Program (Amended 10/12/18)
19.4	Work Release for State Inmates in Jails (Added 4/12/18)
20.1	Educational Courses[Programs] and Educational Good Time (Amended 1/13/20[8/25/09])
20.2	Apprenticeship Courses (Added 5/12/20[4/13/20])
21.1	Library Services (Added 3/14/14)
22.1	Privilege Trips (Amended 10/14/05)
22.2	Recreation and Inmate Activities (Added 3/14/14)
23.1	Religious Programs (Amended 3/14/18)
25.2	Public Official Notification of Release of an Inmate (Amended 10/14/05)
25.3	Prerelease Program (Effective 11/15/06)
25.4	Inmate Furloughs (Amended 1/13/20[Added 4/12/18])
25.6	Community Service Center Program and Jail Placement (Amended 11/13/18)
25.10	Administrative Release of Inmates (Amended 1/13/20[8/42/46])
25.11	Victim Services Notification (Amended 8/25/09)
25.12	Home Incarceration Program (Amended 1/13/20[Added 8/12/16])
25.13	Women's Medical Release: Pregnancy (Added 11/13/18)
25.14	Reentry Center Program (Added 11/13/18)
26.1	Citizen Involvement,[and] Volunteer, and Reentry Mentor Service Programs[Program] (Amended 1/13/20[4/42/48])

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections website in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx>[<https://corrections.ky.gov/Pages/default.aspx>].

KATHLEEN M. KENNEY, Commissioner

APPROVED BY AGENCY: December 8, 2019

FILED WITH LRC: January 13, 2020 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on March 26, 2020, 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 March 31, 2020. 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 and Public Safety Cabinet, 125 Holmes Street,

Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Kentucky Department of Corrections (DOC) including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: This regulation meets statutory requirements in KRS 17.500, 17.550, 72.020, 72.025, 196.030, 196.031, 196.032, 196.035, 196.070, 196.075, 196.111, 196.286, 196.288, 197.010, 197.020, 197.023, 197.045, 197.140, 197.170, 197.175, 210.005, 211.470, 241.010, 391.005, 439.250, 439.3101, 439.3103, 439.3401, 439.470, 439.510, 439.580, 439.590, 439.600, 439.990, 439.640, 440.010, 446.010, 500.080, 520.010, 532.007, 532.100, 532.120, 532.200, 532.210, 532.220, 532.230, 532.240, 532.250, 532.260, 532.262 and 532.260 and meets American Correctional Association (ACA) standards policy requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of the Kentucky Department of Corrections. The authorizing statutes permit the Secretary of the Cabinet or his delegate and the Commissioner to implement or amend practices or procedures to ensure the safe and efficient operation of the Department of Corrections.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions. It provides direction and information to Corrections employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: The amendment adds a new policy for apprenticeship courses and updates procedures in other policies for the Department of Corrections as outlined in the summary of material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendment meets the requirements of KRS 196.035 and 197.020 and updates practices for the department and its institutions in part to maintain accreditation with ACA standards.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes permit the Secretary of the Cabinet or his delegate and the Commissioner to implement or amend practices or procedures to ensure the safe and efficient operation of the Department of Corrections.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff and inmates information concerning the effective and orderly management of the state correctional institutions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, visitors, volunteers and others who enter state correctional institutions, offenders on home incarceration, community offenders on probation and parole, jailers and jail employees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with any operational changes made by this amendment. Jailers and jail employees will have to comply with the amendment for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the amendment to this administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Part of the operational changes will allow compliance with statutory changes. The operational changes will assist in the effective and orderly management of the state correctional institutions.

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

(a) Initially: No increase in funding is anticipated.

(b) On a continuing basis: No increase in funding is anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is anticipated.

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The amendments to this regulation impact the operation of the Department of Corrections, state correctional institutions, and reentry service centers, and 76 or less full-service jails.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 17.170, 196.030, 196.035, 196.070, 196.075, 196.173, 196.180, 197.020, Chap. 218A, 439.250, 439.310, 439.3110, 439.3401, 439.470, 439.590, 439.640, 441.560, 510, 529.100, 530.020, 530.064, 531.310, 531.320 532.100, 532.260, 34 U.S.C. §§ 30301 – 30309, 42 U.S.C. § 12102 et seq., 28 C.F.R. §115.5, 28 C.F.R. §115.6, 28 C.F.R. § 115.11, 28 C.F.R. § 115.15-16, 28 C.F.R. § 115.21-22, 28 C.F.R. § 115.31-35, 28 C.F.R. § 115.41-42, 28 C.F.R. § 51-52, 28 C.F.R. § 115.61-64, C.F.R. § 115.67, 28 C.F.R. § 115.71-73, 28 C.F.R. § 78, 28 C.F.R. § 115.81-83, 28 C.F.R. § 115.86, 28 C.F.R. § 115.89

(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 is anticipated to be generated for the Department of Corrections or county or regional jails from the policy changes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is anticipated to be generated for the Department of Corrections or county or regional jails from the policy changes.

(c) How much will it cost to administer this program for the first year? The amendment to this regulation impacts how the Kentucky Department of Corrections and state correctional institutions operate. There are no significant additional costs for the Department of Corrections or jails under this amendment.

(d) How much will it cost to administer this program for subsequent years? The amendment to this regulation impacts how the Kentucky Department of Corrections and state correctional

institutions operate. The costs for the amendment are not expected to increase costs for the Kentucky Department of Corrections budgeted funds for the biennium.

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

Revenues (+/-):

Expenditures (+/-):

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education (As Amended at ARRS, May 12, 2020)

702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training.

RELATES TO: KRS 156.160, 161.011, 189.540, 281A.170 – 281A.175, 49 C.F.R. Parts 380, 382 and 391[382-401-382.605]

STATUTORY AUTHORITY: KRS 156.160(1), 189.540

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1) requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children. KRS 189.540 requires the board [Kentucky Board of Education] to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

Section 1. [(4)(a)]Licensing Requirement. A school bus driver shall have a current, valid Commercial Driver's License with applicable endorsements and restrictions pursuant to KRS 281A.170 to 281A.175.

Section 2. Medical Fitness. (1) A local board of education shall require an annual medical examination that complies with KRS 281A.175 for[each] each school bus driver [or driver of a special vehicle used to transport school children to and from school and events related to the school].

(2) A person shall not drive a school bus unless physically and mentally able to operate a school bus safely and in accordance with the requirements of this administrative regulation.[satisfactorily.]

(3) If there is limitation of motion in joints, neck, back, arms, legs, or other body parts, due to injury or disease that may limit the driver's ability to safely perform the task of driving a school bus or performing other driver responsibilities, the person shall not be employed as a school bus driver.[.]

(4) A temporarily-injured or ill bus driver may be assigned duties other than driving until the employee regains the ability to safely perform school bus driver duties.

(5) An otherwise medically and physically eligible school bus driver with diabetes mellitus, may be employed as a school bus driver, if the driver possesses a valid federal Medical Examiner's Certificate as required under 49 C.F.R. Part 391.41.

(6)[(b)] A driver taking medication either by prescription or without prescription shall report ~~the[said]~~ medication to the immediate supervisor and shall not drive if that medication may affect the driver's ability to safely drive a school bus or perform other driver responsibilities.

(7)(a) To ensure student safety, a district may require a school bus driver to pass a [routine] medical examination or a special type medical examination more often than annually at the district's expense.[.]

(b) The medical examination shall include risk assessment and appropriate follow-through, as established in 702 KAR 1:160, Section 1, for tuberculosis upon initial employment.[.] and]

(c) The medical examination shall be documented on the same form required by the Kentucky Department of Transportation to obtain a commercial driver's license and retained by the

district [A current Medical Examination Report, form TC94-35E and supplement (TC 94-35E and the Supplement to TC 94-35E)] for each school bus driver shall be retained by the district.

(2) The medical examination shall include tests for:

- (a) Hearing and vision disorders;
- (b) Emotional instability; and
- (c) Serious medical conditions including:

- 1. Diabetes;
- 2. Epilepsy;
- 3. Heart disease; and

4. Other chronic or communicable diseases if indicated in the opinion of the licensed medical examiner.

(3) The examination shall include risk assessment and appropriate follow-through, as established in 704 KAR 4:020, Section 1, for tuberculosis upon initial employment.

(4) A medical examination of a school bus driver shall be reported on the Medical Examination Report, form TC94-35E and supplement, and shall be submitted to the local superintendent or the superintendent's designee.]

Section 3.[2.] Criminal Records Check, Driving History, and Drug Testing. (1)(a) A criminal records and driving history check shall be performed by a local district on school bus drivers prior to initial employment and prior to reemployment following[after] a break in employment[service (excluding summers)].

(b)1. Employment shall be contingent upon meeting the requirements of paragraph (a) of this subsection.

2. A local board of education shall adopt policies outlining employment qualifications for school bus drivers as related to these criminal records and driving history checks.

(c) A school bus driver shall immediately report to the local superintendent or the superintendent's designee a:

- 1. Revocation of the driver's license;
- 2. Conviction for driving under the influence (DUI) or driving while intoxicated (DWI)[DUI or DWI];
- 3. Conviction for reckless driving; or
- 4. Citation for a moving motor vehicle violation, including:
 - a. Driving under the influence (DUI) or driving while intoxicated (DWI)[DUI or DWI];
 - b. Reckless driving; or
 - c. A violation of state or local law governing motor vehicle traffic control, other than a parking violation.

(2)(a) Controlled substance and alcohol use testing shall be a condition of employment for anyone in a safety sensitive pupil transportation position, including:

- 1. School bus drivers;
- 2. School bus mechanics; and
- 3. Other safety-sensitive jobs requiring a Commercial Drivers License (CDL)[CDL] license.

(b) The controlled substance and alcohol use testing program shall include the following tests:

- 1. Preemployment testing (controlled substance only);
- 2. Postaccident testing;
- 3. Random testing; and
- 4. Reasonable suspicion testing.

(c) Prospective employees who have tested positive for a controlled substance within the last five (5) years shall not be considered for employment to drive a school bus or the performance of safety-sensitive services related to pupil transportation.

(d) A school bus driver, school bus mechanic, or anyone performing safety-sensitive pupil transportation duties having a confirmed positive test for a controlled substance shall be relieved of those duties immediately and not be eligible for reemployment for five (5) years.

(e) A school bus driver, school bus mechanic, or anyone performing safety-sensitive pupil transportation duties who tests at 0.02 percent or higher on the confirmation alcohol test immediately before, during, or immediately following the performance of these duties shall be relieved of these duties immediately and not be eligible for reemployment in a safety-sensitive pupil transportation position for five (5) years.

(f) A person shall not be employed as a school bus driver if

convicted within the past five (5) years of driving under the influence (DUI) or driving while intoxicated (DWI)[DUI or DWI].

(g)1. A person shall not drive a school bus unless the person is physically or mentally able to operate a school bus safely and satisfactorily.

2. If there is limitation of motion in joints, neck, back, arms, legs, or other body parts, due to injury or disease that may limit the driver's ability to safely perform the task of driving a school bus or performing other driver responsibilities, the person shall not be employed as a school bus driver.

3. Pursuant to KRS 161.011, a temporarily-injured or ill bus driver may be assigned duties other than driving until the employee regains the ability to safely perform school bus driver duties.]

(h) A driver taking medication either by prescription or without prescription shall report to the immediate supervisor and shall not drive if that medication may affect the driver's ability to safely drive a school bus or perform other driver responsibilities.

Section 3. (1) A person shall not drive a school bus unless the person has:

(a) Visual acuity of at least 20/40 (Snellan) in each eye either without corrective lenses or by correction with corrective lenses;

(b) Form field vision of not less than a total of 140 degrees; and

(c) The ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

(2) A driver requiring correction by corrective lenses shall wear properly prescribed corrective lenses at all times while driving.

Section 4. (1) A person shall not drive a school bus if the person's hearing is less than 7/15 in the better ear, or if hearing loss is greater than forty (40) decibels if an audiogram is used, for conversational tones, with or without a hearing aid.

(2) A driver requiring a hearing aid shall wear properly operating aids at all times while driving.

Section 5. A school bus driver shall be at least twenty-one (21) years of age.

Section 6. (1) A school bus driver shall have a current, valid Commercial Driver's License with applicable endorsements and restrictions.

(2)(a) Prior to acceptance into the school bus driver training program, a driver applicant shall be required to demonstrate driving skills judged by a certified driver training instructor to meet acceptable performance standards as outlined in Preemployment Road Test found in the School Bus Drivers Curriculum Instructor's Manual.

(b) The Preemployment Road Test Score Sheet supplied by the Department of Education shall become a part of the driver's training record.

(c) A driver shall demonstrate the following skill levels:

1. Vehicle knowledge; and

2. Driver ability to

A. Perform steering, maneuvering, and braking;

b. Use mirrors;

c. Demonstrate

(i) Ninety (90) degree left hand turns steering technique;

(ii) Ninety (90) degree right hand turns steering technique;

(iii) Correct operating posture;

(iv) Visual awareness;

(v) Backing ability using mirrors only; and

(vi) Demonstration of spatial awareness.]

Section 4.[7. (1)] Training Requirements. (1)(a) Minimum training requirements to become a school bus driver shall consist of the successful completion of the twenty-one (21) hour initial training course and follow-up reviews as set forth in the Kentucky School Bus Driver Trainer Manual[training course developed by the Kentucky Department of Education and three (3) driver review, evaluation, and instruction components].

(b) Prior to the beginning of each school year, a bus driver

shall successfully complete a district specific eight (8) hour update training.

(c) Each district shall annually provide the eight (8) hour update training, which shall be aligned with the Kentucky School Bus Driver Trainer Manual, address the needs of the district's school bus drivers, and be conducted by a driver trainer certified in accordance with subsection two (2) of this section.

(d) The eight (8) hour update training shall be provided after the district's last student attendance day of the school year, but prior to opening day of the proceeding school year.

(e) ~~If in the event~~ a district employs a school bus driver, after the eight (8) hour annual update training was provided to bus drivers, the district shall provide the driver with the update training prior to allowing the driver to transport students.

(f) If a school bus driver leaves the employment of a school district as a bus driver, and is subsequently reemployed in the district as a driver, the driver shall complete the eight (8) hour update training within twelve (12) months following the driver's last date of employment in the district as a bus driver.

(g) A driver who does not timely complete the annual eight (8) hour update training and recertification pursuant to this section shall be required to complete the twenty-one (21) hour initial training course.

(2)(a) A driver trainer shall satisfactorily complete the thirty-three (33) hour classroom and driving curriculum developed by the department and delivered by a state approved driver trainer instructor in accordance with the Kentucky School Bus Driver Trainer Manual. [person shall not be certified to teach the school bus driver training curriculum until that person has:

(a) Satisfactorily completed a minimum of thirty-three (33) of hours classroom and driving instruction conducted by the Department of Education and relevant to the driver training curriculum; and

(b) Been issued an instructor's certificate by the commissioner of education.]

(b)[(3)] ~~A driver trainer~~Driver trainers shall annually complete a minimum of six (6) hours of training developed by the Department and delivered by a state approved driver trainer in accordance with the Kentucky School Bus Driver Trainer Manual. [Instructors shall be required to renew their certificates annually by completing six (6) hours of update training conducted by the Department of Education.

(4) The School Bus Driver Training Course core curriculum shall consist of the following instructional units and minimum instructional times:

(a) Laws and regulations, which shall include at least two (2) hours of instructional time;

(b) Driving fundamentals, which shall include at least two (2) hours of instructional time;

(c) Care and maintenance, which shall include at least two (2) hours of instructional time;

(d) Critical situations one, which shall include at least one (1) hours of instructional time;

(e) Incidents and emergency procedures, which shall include at least two (2) hours of instructional time;

(f) Pupil management, which shall include at least two (2) hours of instructional time;

(g) First aid, which shall include at least one (1) hours of instructional time;

(h) Special education transportation, which shall include at least one (1) hours of instructional time;

(i) Extracurricular trips, which shall include at least one (1) hours of instructional time;

(j) Vehicle operations, which shall include at least three (3) hours of instructional time;

(k) Vehicle control at speed, which shall include at least one (1) hours of instructional time; and

(l) Bus route identification, driver review and instruction, which shall include at least two (2) hours of instructional time.

(5) Upon successful completion of the core curriculum, the school bus driver applicant shall complete the following:

(a) Driver review I, evaluation and instruction, which shall include at least two (2) hours of instructional time within the first

five (5) days of driving;

(b) Driver review II, evaluation and instruction, which shall include at least two (2) hours of instructional time after not less than twenty (20) days and not more than thirty (30) days of driving; and

(c)1. Driver review III evaluation and instruction, which shall include at least one (1) hour of instructional time within three (3) to six (6) months of completion of driver review II.

2. Driver review III shall be done with students on the bus.

Section 8. (1)(a) Prior to the beginning of each school year, a certified driver shall complete an eight (8) hour training update relevant to the curriculum.

(b) Each district shall be responsible for planning and conducting its own update based on the needs of its drivers and to ensure student safety. A district unable to administer its own eight (8) hour update shall receive prior written approval from the Department of Education before sending a driver to receive the training from another district.

(2) Discontinuance of driver employment and subsequent reemployment shall require the driver to become requalified by a training update within the twelve (12) month period following the driver's certification termination date.

(3) A driver who does not complete the training update and recertification as required by subsection (2) of this section shall be required to complete the beginning training program.]

Section 5.[9.] First Aid and Cardiopulmonary Resuscitation (CPR). All school bus drivers, pupil transportation technicians, and employees that transport students shall, at a minimum, receive basic first aid and CPR training by a person with:

(1) A valid certificate in first-aid training, including CPR, from the American Red Cross; ~~or~~

(2) Equivalent training that can be verified by documentary evidence.

Section 6. Emergency Operation. (1) If an emergency makes it necessary for the driver to leave the bus while pupils are on board, the driver shall follow local board policy.]:

(1) Move the bus to a safe location if possible;

(2) Stop the engine;

(3) Shift the bus to low gear or place in neutral if automatic equipped;

(4) Set the parking brake;

(5) Remove the ignition key; and

(6) Place one (1) of the older responsible pupils in charge during the driver's absence if appropriate.

Section 10.]

(2) A driver shall not permit a pupil to operate the entrance handle or any other bus control except in case of an emergency[school bus at all times in a manner that provides the maximum amount of safety and comfort for the pupils under the circumstances].

Section 7.[14.] Transport of Items on School Bus. (1)~~[(a)]~~ A local board of education shall develop a policy regarding the transport of persons and items on a school bus.

~~[(2)]~~[(b)] To ensure student safety, the policy shall include:

~~[(a)]~~[(1)] A prohibition on firearms or weapons, either operative or ceremonial, except that; however, the policy may permit archery bows, used in connection with a school archery team, to be transported inside the passenger compartment and arrows transported in the underneath storage compartment;

~~[(b)]~~[(2)] A prohibition on fireworks or other explosive materials of any type;

~~[(c)]~~[(3)] A prohibition on live animals, except for a service animal necessary for the student to attend school [as documented by a pupil's Individual Education Program];

~~[(d)]~~[(4)] A prohibition on glass objects or helium balloons; and

~~[(e)]~~[(5)] A prohibition on any object that may block the bus aisle or exits or otherwise impede exiting the bus.~~;~~

~~[(3)]~~[(c)] The policy may additionally address issues related to

the safe transport of students, including ~~[but not limited to]~~ eating and drinking on the school bus.

Section 8. Student Assignment. (1) A driver shall transport only those pupils officially assigned to a bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or designee.

(2) A driver shall not permit an assigned pupil to leave the bus at a stop other than the pupil's regular stop unless presented with written permission signed by the principal or a designee.

(3) A driver shall not transport a person who is not a student, including adult employees of the board, unless provided with written permission from the district superintendent or a designee.

Section 9. Student Seating. (1) A driver shall supervise the seating of the pupils on the bus and may assign a pupil to a specific seat on the bus.

(2)(a) The driver shall make certain the seating capability of the bus has been fully utilized before any pupil is permitted to stand in the bus aisle.

(b) A driver shall not permit pupils to stand ~~[1-1]~~ in the stepwell or landing area ~~if 1-1~~

~~1.2-1f~~ The pupil would likely fall out of the bus if the emergency door were opened; or

~~2.3-1f~~ The driver's view directly in front of the bus or to either side of the front of the bus would be obscured.

(3) A driver shall report to the superintendent or a designee an overcrowded condition on the bus as soon as practicable and in accordance with local district policies.

Section 12. (1) A driver shall transport only those pupils officially assigned to a particular bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or a designee.

(2) Except as provided in Section 18(2)(c) and (d) of this administrative regulation, a driver shall not permit an assigned pupil to leave the bus at a stop other than where the pupil regularly leaves the bus unless presented with a written permission signed by the principal or a designee.

Section 13. A driver shall not transport a person who is not a student, including adult employees of the board, unless provided with written permission from the district superintendent or a designee.

Section 14. A board of education shall develop a policy regarding what may or shall not be transported on a school bus. The policy shall include the following:

(1)(a) A driver shall not knowingly permit any firearms or weapons, either operative or ceremonial, to be transported on the bus.

(b) The driver shall not knowingly permit fireworks or other explosive materials of any type to be transported on the bus;

(2) A driver shall not permit to be transported on the bus:

(a) live animals, except for an animal that is:

1. To enable a person to safely utilize the bus transportation as documented by:

a. Adequate medical evidence; or

b. A student's Individual Education Plan; and

2. Not a risk to other bus riders;

(b) A preserved specimen that would likely frighten a pupil or cause a commotion on the bus; or

(c) Glass objects or helium balloons; and

(3) A driver shall not permit the transportation of an object that may block the bus aisle or exits.

Section 15. A driver shall not permit a pupil to operate the entrance door handle or any other bus control except in case of an emergency.]

Section 10.[46.] Loading and Unloading. (1) A driver shall activate the flashing amber signal lights at least 200[450] feet, if

available, or a sufficient distance from a bus stop to warn motorists of the intended stop.

(2) Once the bus comes to a complete stop, the driver shall follow the loading and unloading procedure outlined in the Kentucky School Bus Driver Trainer Manual [Chapter 7 of the School Bus Drivers Curriculum Instructor's Manual].

(3) A stop signal arm and flashing warning lights shall be in operation anytime pupils are boarding or leaving the bus, including on school property.

(4) A driver shall signal pupils to board or exit only after determining that any visible approaching traffic has come to a complete stop and is not beginning to move or attempting to pass the bus.

(5) A driver of a school bus shall be on the bus at all times students are loading or unloading.

Section 11.[17.] Fueling. For safety reasons, a driver shall not permit fueling of the bus while pupils are on board the bus.

Section 12.[48.] Student Conduct. (1) Local boards of education shall adopt policies related to student conduct on school buses.

(2) If a pupil's conduct on the bus makes it unsafe for the bus to continue on its route, the driver shall follow local district policy.[-

(1) Make a determination as to the potential danger to other students on the bus; and

(2) Take action against the student by:

(a) Requesting that the student stop engaging in the prohibited conduct;

(b) If feasible, sending for assistance if the student fails to comply with the driver's order or request;

(c) Ordering the student to leave the bus; or

(d) Ejecting the pupil from the bus.

(3)(a)[1-] Ejecting a pupil from the bus shall be done only in the most extreme circumstances.[- and]-]

(b)[2-] If a student has been ejected from a bus [as the result of conduct specified in subsection (1) of this section,] the driver shall notify the immediate supervisor who shall notify the appropriate district authorities, who shall subsequently notify the student's parent or legal guardian according to local board policy.

Section 13.[49.] Railroad. A school bus driver shall stop the bus at all places where the roadway crosses a railroad track or tracks at the grade level. The stop shall be made not less than fifteen (15) feet and not more than fifty (50) feet from the nearest track.

(1) After making the stop, the driver shall:

(a) Set the parking brake;

(b) Shift to neutral;

(c) Activate the noise abatement switch;

(d) Open the service door and driver side window; and

(e) Carefully look in each direction and listen for approaching trains before proceeding.

(2) If visibility is impaired at a crossing, after stopping the driver may allow the vehicle to roll forward to gain required visibility before proceeding.

(3) When a driver has ascertained that it is safe for the bus to cross the railroad tracks or tracks at the grade level, the driver shall:

(a) Close the bus entrance door;

(b) Shift the bus into the lowest gear;

(c) Release the parking brake;

(d) Proceed immediately to cross the railroad tracks or tracks at the grade level; and

(e) Turn the noise abatement switch off when safe to do so.

Section 14.[20.] Driver Inspection. (1) A driver shall perform and document a pretrip inspection of the bus safety and operating equipment each time that the bus is taken out for the transportation of pupils.

(2)[Section 21.-(4)] A school bus driver shall inspect the school bus at the completion of each bus run to ensure that no students remain in the bus.

~~Section 15. Road Conditions.~~ [not operate the school bus at a speed in excess of the posted speed limit on any section of highways over which the bus travels.

~~(2)] A driver shall not drive the school bus on any roadway [at any time at a speed] if the conditions of the roadway, weather conditions, or other extenuating circumstances may make it unsafe.~~

~~Section 16. Driver Seat Belt.~~ [Section 22.] A driver shall wear the driver's seat belt at all times that the bus is operated.

~~Section 17. Tobacco.~~ [Section 23. A stop signal arm and flashing warning lights shall be used only at stops where pupils are boarding or leaving the bus.

~~Section 24.] A driver shall not use tobacco products on the school bus and shall not permit pupils to use tobacco products on the school bus.~~

~~Section 25. A driver shall signal pupils to board or leave the bus when the driver has determined that any visible approaching traffic has come to a complete stop and is not attempting to start up or pass the bus.~~

~~Section 26. (1) A driver shall not operate a school bus while under the influence of alcoholic beverages or any illegal drug or other drug.~~

~~(2) A driver found under the influence of alcohol or any illegal drug while on duty or with remaining driving responsibilities that same day shall be dismissed from employment.~~

~~Section 27. A driver of a school bus shall be on the bus at all times students are loading or unloading.~~

~~Section 28. A driver shall inspect the school bus at the completion of each bus run to ensure that students do not remain on the bus.]~~

~~Section 18. [Section 29.] **Drug and Alcohol. (1) A driver shall not operate a school bus while under the influence of alcoholic beverages or any illegal drug or other drug.**~~

~~**(2) A driver found under the influence of alcohol or any illegal drug while on duty or with remaining driving responsibilities shall, that same day, be dismissed from employment.**~~

~~**Section 19. Incorporation by Reference. (1) The [following material is incorporated by reference:**~~

~~**(a)] "Kentucky School Bus Driver Trainer Manual, Kentucky School Bus Drivers Curriculum", October 2019, is incorporated by reference["Medical Examination Report", Form TC 94-35E and Supplement to TC 94-35E, October 2007;**~~

~~**(b) "Preemployment Road Test", Score Sheet January 2002; and**~~

~~**(c) "School Bus Drivers Curriculum Instructor's Manual", October 2007].**~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Pupil Transportation Branch, Department of Education, 300 Sower Boulevard, Frankfort, Kentucky 40601[15th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601], Monday through Friday, 8 a.m. to 4:30 p.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.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS, May 12, 2020)

704 KAR 7:090. Homeless Children and Youth Education Program and ensuring educational stability of children in foster care.

RELATES TO: KRS 156.029, 156.035, [156.029], 156.160, 214.185(3), (4), 20 U.S.C. 1232g, 6311(g)(1)(E), [20 U.S.C.] 6312(c)(5)(B), 42 U.S.C. 11431 et seq. [11432]

STATUTORY AUTHORITY: KRS 156.070, 156.160(1)(p); 156.070

NECESSITY, FUNCTION, AND CONFORMITY: In accordance with the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), as amended under the Every Student Succeeds Act of 2015 (ESSA), the Kentucky Department of Education (department), when applying to the U.S. Department of Education for participation in programs for homeless children and unaccompanied youth under the McKinney-Vento Act, shall submit an approvable plan and satisfactory assurances that all requirements of the law established[set forth] in 42 U.S.C. Section 11432 shall be met. This administrative regulation [implements] aligns with the Kentucky Board of Education's duties, pursuant to KRS 156.029 and 156.035, to develop [education policy; to] administrative regulations governing activities within the department and implement [acts of Congress] Congressional action appropriating [and apportioning] funds to the state [and to provide for the proper implementation of federal law] in accordance with state and federal law and Kentucky's consolidated State plan under ESSA [the state's current plan]. Specifically, this [This] administrative regulation establishes criteria regarding residency policies[, the provision of] and provides for a free, appropriate public education [to] for homeless children and unaccompanied youth[, provides] informal procedures for resolving [resolution of] disputes regarding the educational placement of homeless children and unaccompanied youth[, provides] grants to local educational agencies (LEAs) for the enrollment, retention, and educational success of homeless children and unaccompanied youth[, and] [provides for] an annual count of homeless children and unaccompanied youth. Additionally, this administrative regulation requires LEAs to have procedures for awarding credit, including partial credit, for coursework satisfactorily completed by homeless children and unaccompanied youth in another school as well as for conferring high school diplomas to homeless children and unaccompanied youth in accordance with KRS 156.160(1)(p). Consistent with 20 U.S.C. 6311(g)(1)(E) and 20 U.S.C. 6312(c)(5)(B), this administrative[administrative] regulation also promotes the educational stability of children in foster care through the implementation of the foster care liaison within each LEA.

Section 1. Definitions. (1) "Foster care" shall have the same meaning as defined in KRS 620.020(5). ["Homeless child", "homeless children", and "homeless student" means a child or children who are between the ages of birth and twenty-one (21) years inclusive and who lack a fixed, regular, and adequate nighttime residence. The term includes children and youth who are:

~~(a) Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;~~

~~(b) Are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;~~

~~(c) Are living in emergency or transitional shelters;~~

~~(d) Are abandoned in hospitals;~~

~~(e) Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;~~

~~(f) Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and~~

~~(g) Migratory children who qualify as homeless because they are living in circumstances described above.]~~

(2) "Free, appropriate public education" means the educational

programs and services [that are] provided to the children of a resident of a state[, and that are] consistent with state school attendance laws. These educational programs and services, for which the child meets the eligibility criteria, may include:

- (a) Magnet schools;
- (b) Charter schools;
- (c) Compensatory education programs for the disadvantaged;
- (d) Educational programs for the handicapped and students with limited English proficiency;
- (e) Programs in vocational education;
- (f) Programs for the gifted and talented;
- (g) School meals programs;
- (h) Extended school programs;
- (i) Preschool programs; and
- (j) Programs developed by the family resource and youth services centers.

(3) "Homeless child," "homeless children," and "homeless student" mean a child or children who are between the ages of birth and twenty-one (21) years, inclusive, and who lack a fixed, regular, and adequate nighttime residence. This definition includes children and youth who:

- (a) Are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
- (b) Are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;
- (c) Are living in emergency or transitional shelters;
- (d) Are abandoned in hospitals;
- (e) Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- (f) Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or
- (g) Are migratory children who qualify as homeless because they are living in circumstances described in this subsection[above].

(4) "Local educational agency" or "LEA" shall have the same meaning as defined in 20 U.S.C. 7801(30).

(5) "School of origin" means the school that the homeless child or youth or foster child attended when permanently housed[, or the school in which the homeless child or youth or foster child was last enrolled. [Consistent with McKinney-Vento as reauthorized by ESSA,] This [this] shall include preschool and designated receiving schools at the grade level for all feeder schools when a student completes the final grade level served by the school of origin.

(6)[(5)] "Student attendance day" shall have the same meaning as defined in KRS 158.070(1)(e).

(7)[(6)] [(4)] "Unaccompanied youth" means a youth that meets the definitions of unaccompanied youth and homeless included in the McKinney-Vento Homeless Assistance Act[not in the physical custody of a parent or guardian] [means a youth that meets the definitions of unaccompanied youth and homeless included in the McKinney-Vento Homeless Assistance Act].

Section 2. Criteria for Homeless Children and Youth Education Program Implementation. (1) Homeless children and [or] unaccompanied youth who reside within the boundaries of an LEA [a local school district] shall be provided a free, appropriate public education. [Programs for homeless children and unaccompanied youth shall be provided in a timely fashion and shall be ensured by the following actions:]

(2) [(4)] Each LEA [local district] shall designate a person [in the district] to be a homeless child education [liaison] [(liaison)], [shall] submit the name of the person acting as liaison to the department [Kentucky Department of Education], and [shall] allocate sufficient time to the homeless child education liaison to perform the required responsibilities.

(3) The homeless child education liaison[liaison's] shall be responsible for [responsibilities shall be to]:

- (a) Obtaining[Obtain] all necessary records, including birth certificates and immunization records, of each homeless student and unaccompanied youth identified as living within the boundaries

of the LEA [school district] and immediately placing [place the] each homeless student and unaccompanied youth in appropriate programs. [In cases where] if[Where] educational records are not readily available, the liaison shall personally make direct contact with [make personal direct contact to] the LEAs[LEA(s)] [school district(s)] or schools of last attendance for verbal confirmation of essential information, including coursework that has been satisfactorily completed. The liaison shall assist the homeless student or unaccompanied youth to obtain essential records that[which] are not in existence;

(b) Receiving [Receive] and resolving [resolve] any requests for resolution of disputes related to the educational placement of homeless students and [or] unaccompanied youth within the LEA [district]. The liaison shall provide the necessary information to the department [Department of Education] for final resolution if a request[whenever such] [a request] [requests] cannot be [is received and is not] resolved at the local level;

(c) Assisting [Assist] the homeless student or unaccompanied youth to obtain the appropriate program and services, including transportation and referrals to medical, dental, mental health, and other appropriate programs and services;

(d) Developing [Develop] procedures to ensure that homeless student or unaccompanied youth records are readily available upon request by a new receiving LEA or school [district];

(e) Developing relationships [a relationship] with known homeless service providers and state agencies in the community to identify and enroll homeless students or unaccompanied youth living there;

(f) Reviewing [Review] local data indicating the prevalence of homelessness in the community and assessing [assess] needs of local homeless children and unaccompanied youth with LEA administrators based on the review of data;

(g) Ensuring [Ensure] school personnel providing McKinney-Vento services receive professional development and other support related to addressing the challenges of homelessness and supporting homeless children and unaccompanied youth, including runaway youth;

(h) Ensuring [Ensure] unaccompanied youth are enrolled and receive support to accrue credits and access higher education; and

(i) Receiving [Receive] annual department-approved training to cover at least the following topic areas:

1. The rights and services provided for homeless children and unaccompanied youth;
2. Identification of homeless children and unaccompanied youth;
3. The state dispute resolution process, data utilization, monitoring, and reporting requirements under this administrative regulation; and
4. Best practices to serve homeless children and unaccompanied youth.

(4) Consistent with KRS 156.160(1)(p), and to the extent feasible, homeless children and unaccompanied youth shall be awarded credit, including partial credit, for all coursework satisfactorily completed.

(5) To ensure credit, including partial credit, is awarded for all coursework satisfactorily completed by homeless children and unaccompanied youth, an LEA shall adopt written procedures addressing:

(a) The tool or methodology the LEA shall use to calculate credit, including partial credit, to be awarded for all coursework satisfactorily completed by homeless children and unaccompanied youth;

(b) The consolidation of partial credit, where appropriate, to provide opportunities for credit accrual that eliminate academic and nonacademic barriers for homeless children and unaccompanied youth;

(c) How the LEA shall provide students experiencing homelessness access to extracurricular and summer programs, credit transfer and electronic course services, and after-school tutoring and other extended school services available in the district to the fullest extent practicable and at nominal or no costs;

(d) The ways in which the LEA shall lessen the impact of school transfers for homeless children and unaccompanied youth.

which shall include:

1. Identifying systems that are in place to ease the transition of students experiencing homelessness, particularly during the first two weeks at a new school;

2. Requiring counselors to provide timely assistance and advice to improve college and career readiness for students experiencing homelessness; and

3. Granting priority placement in classes offered by the LEA that meet state minimum graduation requirements for students who change schools at least once during a school year as a result of homelessness;

(e) How and in what circumstances the LEA shall allow a student experiencing homelessness who was previously enrolled in a course required for high school graduation to complete that course at no cost before the beginning of the next school year as required by KRS 156.160(1)(p)2. ~~[(2)]~~; and

(f) The required review of credit accrual and the personal graduation plan for each homeless student and unaccompanied youth that is not on track to receive a high school diploma before the fifth year of high school enrollment.

(6) To ensure credit, including partial credit, is awarded for all coursework satisfactorily completed by homeless children and youth, an LEA may adopt procedures providing for:

(a) The timely placement of a student experiencing homelessness in electives comparable to those in which the student was enrolled in or earned partial credit for the successful completion of at the previous ~~schools~~~~[school(s)]~~;

(b) Engaging homeless students and unaccompanied youth by offering curricula that connect schoolwork with college and careers;

(c) Flexibility for homeless students and unaccompanied youth to complete credits, particularly those required for high school graduation, which may include flexible scheduling options, open entry and exit, extended year programming, or self-paced learning-based on competency;

(d) Small, personalized learning environments for students experiencing homelessness;

(e) Blended learning opportunities such as computer-based or digital learning options for students experiencing homelessness;

(f) Work-based learning programs, apprenticeships, or alternative education programs that allow homeless students and unaccompanied youth to recover credits or earn income while completing credits; or

(g) The integration of content standards from multiple subject areas into a single course for which students can earn simultaneous credit. Curriculum for integrated courses addresses standards across subject matters and may emphasize interdisciplinary connections from technical or academic areas.

(7) An LEA shall adopt written procedures for awarding a high school diploma to homeless children and unaccompanied youth who transfer after completion of the second year of high school and meet the requirements outlined in KRS 156.160(1)(p).

[(2) Each local district shall designate a person in the district to be a foster care liaison, shall submit the name of the person to the Kentucky Department of Education, and shall allocate sufficient time to the foster care liaison to perform required responsibilities. The foster care liaison may also be the homeless education liaison. The foster care liaison's responsibilities shall be to ensure that:

(a) A child in foster care remains in his or her school of origin, unless it is determined that remaining in the school of origin is not in that child's best interest;

(b) If it is not in the child's best interest to stay in his or her school of origin, the child is immediately enrolled in the new school even if the child is unable to produce records normally required for enrollment; and

(c) That the new (enrolling) school immediately contacts the school of origin to obtain relevant academic and other records.]

Section 3. Residency and Enrollment in the Homeless Children and Youth Education Program. (1) ~~[The school district of residence shall be the district in which the homeless student or unaccompanied youth physically resides with his or her parent or legal custodian, unless by reason of marriage, emancipation, or basic physical necessity the child resides elsewhere.] In the best~~

~~interest of the homeless student or unaccompanied youth, an LEA serving a homeless student or unaccompanied youth [The school district of residence] shall ensure that:~~

~~(a) [The homeless student or unaccompanied youth is enrolled in the school attendance area in which he or she is physically located or that] The homeless student's or unaccompanied youth's education is continued in the school of origin for the duration of homelessness; [remainder of the academic year, or in any case in which the family becomes homeless between academic years, for the following academic year;]~~

~~1. In any case in which the homeless child or unaccompanied youth becomes homeless between academic years or during an academic year; and~~

~~2. For the remainder of the academic year, if the homeless child or unaccompanied youth becomes permanently housed during an academic year; or~~

~~(b) The homeless student or unaccompanied youth is enrolled [enroll the child or youth] in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend[, whichever is in the best interest of the homeless student or unaccompanied youth].~~

~~(2) In determining the best interests of the homeless child or unaccompanied youth for purposes of making a school assignment under **subsection (1) of this section**~~[3(1) of this administrative regulation]~~, an LEA serving a homeless student or unaccompanied youth shall: [consideration shall be given to a request made by the parent or unaccompanied youth regarding school selection]~~

~~(a) Presume that it is in the best interest of the homeless child or unaccompanied youth to remain in the school of origin, unless doing **so**~~do~~ is contrary to a request made by the unaccompanied youth or by the parent or guardian of the homeless child regarding school selection;~~

~~(b) Consider student-centered factors, including the impact of mobility on achievement, education, health, and safety, giving priority to a request made by the unaccompanied youth or by the parent or guardian of the homeless child regarding school selection;~~

~~(c) If, after conducting the best interest determination based on the presumption in paragraph (a) of this subsection and on the student-centered factors in paragraph (b) of this subsection, the LEA determines that it is not in the homeless child's or unaccompanied youth's best interest to attend the school of origin or the school requested by the unaccompanied youth or by the parent or guardian of the homeless child, provide a written determination explaining the reasons for the determination to the unaccompanied youth or the parent or guardian of the homeless child in a manner and form that is understandable. The written determination shall also contain information regarding the rights of the unaccompanied youth or the parent or guardian of the homeless child to dispute the determination pursuant to the procedures **established**~~[set forth]~~ in Section 4 of this administrative regulation; and~~

~~(d) In the case of an unaccompanied youth, ensure the homeless child education liaison assists in placement or enrollment decisions, gives priority to the views of the unaccompanied youth, and provides notice to **the**~~[such]~~ youth of the right to dispute his education placement pursuant to the procedures **established**~~[set forth]~~ in Section 4 of this administrative regulation.~~

~~(4) The school selected for purposes of making a school assignment under **subsection (1) of this section**~~[3(1) of this administrative regulation]~~ shall immediately enroll the homeless child or unaccompanied youth, even if the student is unable to produce records normally required for enrollment, or has missed application or enrollment deadlines during any period of homelessness.~~

~~(5) [(3)] A homeless student or unaccompanied youth shall not be denied enrollment [in the school district of residence] due to the absence of a parent or a court-appointed guardian or custodian. **The**~~[Such]~~ a homeless student or unaccompanied youth shall be enrolled and provided educational services until **[such time that]** the LEA [school district] can substantiate that the enrollment is contrary to the best interests of the child or youth pursuant to~~

subsection (2) of this section~~[3(2) of this administrative regulation]~~Section 1(2) of this administrative regulation].

(6) [(4)] In the absence of a parent[,] and a court-appointed custodian or guardian, any medical, dental, and other health services may be rendered to a homeless student or unaccompanied youth who is a minor of any age when, in the judgment of the school principal or other professional, [that] the risk to the minor's health is of such a nature that treatment should be given without delay and the requirements of consent would result in delay or denial of treatment as stated in KRS 214.185(3) and (4).

(7) [(5)] Homeless children or unaccompanied youth shall not include any individual imprisoned or otherwise detained by act of Congress or a state law. ~~[Not shall]~~ A child shall not be classified as "homeless" to circumvent state law and administrative regulations ~~that[which]~~.

(a) Prohibit the attempted enrollment of nonresident students for the express purposes of obtaining school accommodations and services without the payment of tuition to the nonresident LEA [school district] or for the purpose of obtaining specific programs not available in the school of residence; or

(b) Regulate interschool athletic recruiting by the Kentucky High School Athletic Association. (8) [(6)] LEA [School district] policy, including policies related to guardianship issues, shall not delay or deny the immediate provision of educational placement and appropriate services to the homeless student or unaccompanied youth[, including policies related to guardianship issues].

Section 4. Resolution of Disputes Arising in the Homeless Children and Youth Education Program. (1) Disputes arising between and among more than one LEA regarding the enrollment of a homeless student or unaccompanied youth shall be resolved by the state homeless education coordinator in accordance with the procedures established in subsections~~[Section 4]~~(4) through (8) of this section~~[administrative regulation]~~.

(2) All other disputes [Disputes arising between or among the school district of residency; another school district; and the parent, youth, or person in parental relationship to the homeless student or unaccompanied youth] regarding [the school district in which the child shall attend school or the educational placement] eligibility, school selection, or enrollment of [the] a homeless student or unaccompanied youth shall be received and resolved by the LEA in which enrollment is sought in accordance with the procedures established in subsection (3) of this section~~[4(3) of this administrative regulation]~~[resolved through the following procedures:]

(3) Within thirty (30) student attendance days after notice of a dispute is received, the LEA in which enrollment is sought by a homeless child or unaccompanied youth shall resolve the dispute using the following procedures:

(a) [(1)] The [local district] homeless child education liaison in the LEA in which enrollment is sought shall ensure immediate enrollment and the provision of services to the homeless child or unaccompanied youth throughout the dispute resolution process;[-]

(b) [(2)] All concerns regarding the education of a homeless child or unaccompanied youth shall be referred to the [local district] homeless child education liaison in the LEA of enrollment. If a complaint arises regarding services or placement of a homeless child or unaccompanied youth, the [school district's] homeless child education liaison in the LEA of enrollment shall inform the homeless student or unaccompanied youth of his or her rights under the McKinney-Vento Act and state law, including this administrative regulation;[-]

(c) [(3)] The homeless child education liaison in the LEA of enrollment shall promptly and thoroughly document all communications, determinations, and evidence. All documentation shall be subject to the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232~~[(f)(2)]~~.

(d) The [local district] homeless child education liaison in the LEA of enrollment shall make a determination on the dispute within a reasonable number of days [as to the complaint. The liaison will document this and all subsequent communications,

determinations, and evidence.] and provide a [A] copy of that determination [shall be presented] to the complainant;[-]

(e) If the [complaint] dispute is not resolved, the complainant shall [will] be advised by the [local district] homeless child education liaison in the LEA of enrollment of the opportunity to present a written request for mediation and, at the request of the complainant, assist the complainant with completing [-The local district liaison shall assist the representative to complete] a written request for mediation, including documenting [an indication of] the specific point at issue;[-]

(f) [(4)] The mediation, if requested by the complainant, shall be facilitated by the homeless child education liaison in the LEA of enrollment and shall be scheduled within a reasonable number of days of the written request and on a day and time reasonably calculated to be [shall be] convenient to the needs of the homeless student or unaccompanied youth. The [district liaison, the] LEA representatives~~[district(s)]~~ [representative(s)][-] and the [child's] representatives [representative(s)] of the homeless child or unaccompanied youth shall have the opportunity to be present at the mediation[-representative. The local district homeless liaison shall facilitate the mediation.]-]

(g) [(5)] During the mediation, the LEA representative(s) [school district(s)] shall discuss considerations that led to the placement decision and the specific point at [in] issue as determined previously and specified within the written request for mediation. The mediation may also include discussion of the ability of the LEA [school district] of enrollment to provide continuity in educational programs, the need of the homeless student or unaccompanied youth for special instructional programs, the amount of time and arrangements required to transport the student to the [original] school in which enrollment is sought [district], the age of the homeless student or unaccompanied youth, [and] the school placement of siblings to the homeless student or unaccompanied youth, and the time remaining until the end of the semester or [the end of the] school year;[-] and

(h) The homeless child education liaison in the LEA of enrollment shall document mediation [Documentation regarding these] proceedings and [must be] provide[d] the/such documentation [with any appeal] to the state homeless education coordinator with any request made pursuant to subsection (4) of this section~~[(4) of this administrative regulation]~~.

(4) [(6)] Where an agreement cannot be reached by the parties, Any [either] party to the dispute may request review by the state homeless education coordinator. Upon written request, the state homeless education coordinator shall make a determination and communicate with the involved parties to discuss available alternatives and seek to resolve the dispute. Any party requesting review by the state homeless education coordinator shall~~[must]~~ provide reasoning for the review, including specific questions of law or fact.

(5) [(7)] If~~[Where such]~~ a request for the review [assistance] of the state homeless education coordinator is made, the LEA of enrollment [school district of residence] shall provide sufficient information as required by the department, including:

(a) A description of the situation that prompted the complaint and subsequent request for review by the state homeless education coordinator;

(b) The names~~[name(s)]~~ and ages~~[age(s)]~~ of the homeless child or children or unaccompanied youth involved;

(c) The names~~[name(s)]~~ of the involved LEA [school district] personnel and the LEAs~~[LEA(s)]~~ [school district or districts] involved; and

(d) Copies of any documentation that served as the basis [used up to that point including reasoning] for LEA [district] decisions[, appropriate evidence to substantiate reasoning,] and other documentation [evidence] the LEA deems [district sees] relevant and appropriate for consideration by the state homeless education coordinator.

[(e)] All information is subject to the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g).-]

(6) [(8)] The state homeless education coordinator shall collect and review appropriate documentation [evidence, review such evidence,] and provide an initial decision to the parties to the

complaint within twenty (20) student attendance days after a request for review is received by the department pursuant to subsection (4) of this section~~[4(4) of this administrative regulation]~~.

(7) Any party [Parties] to the complaint may request that the state homeless education coordinator's decision be reviewed by a three (3) member panel, which shall be convened by the state homeless education coordinator within the department, and the ~~[Department of Education. The]~~ three (3) member panel shall ~~[review the state coordinator's decision and]~~ either adopt or reject the state homeless education coordinator's decision within a reasonable number of days after being convened ~~[or reject it]~~.

(8) If the three (3) member panel rejects the state homeless education coordinator's decision ~~[rejected]~~, the panel shall provide an alternative finding, which shall be supported with appropriate reasoning. The panel's decision shall be/is a final decision and shall not be appealable. ~~[A final decision will be rendered within a reasonable number of days after receiving a complaint.]~~

(9) ~~[Students must be immediately enrolled in the school in which enrollment is being sought in the case of a dispute, including unaccompanied youth. Enrollment must continue until the final resolution of the dispute, including all available appeals.]~~

~~(10) Unaccompanied youth as well as parents or guardians of homeless children shall [have the right to] receive [such] written notice[, as well as parents or guardians accompanying their children. Written explanation is required] of decisions made by the LEAs/LEA(s), state homeless education coordinator, or the three (3) member panel described in subsection (7) of this section~~[4(7) of this administrative regulation], and ~~the[such]~~ written notice shall be provided ~~[school, LEA, or SEA and must be]~~ in an understandable form.

Section 5. Annual Count for the Homeless Children and Youth Education Program. The department ~~[Department of Education]~~ shall annually conduct a count of all homeless children and unaccompanied youth in the state as follows:

(1) LEAs ~~[Local school districts]~~ shall utilize the state student information system for the collection of data regarding homeless children and unaccompanied youth~~[-]~~.

(2) LEAs ~~[Local school districts]~~ shall report an unduplicated count by school of homeless children and unaccompanied youth via the state student information system to the department ~~[Department of Education]~~ according to the time lines provided~~[-]~~ and

(3) The department ~~[Department of Education]~~ shall develop procedures, as needed or required, to ensure that the homeless child count is accurate and verifiable.

Section 6. Local Education Agency Grants for the Education of Homeless Children and Unaccompanied Youth. (1) The department ~~[Kentucky Department of Education]~~ shall make grants to LEAs ~~[local education agencies (LEA)]~~ when ~~the[such]~~ funds become available through a competitive application process. Grants shall be awarded to LEAs based upon the review and rating of their applications.

(2) ~~[(1)]~~ Not less than fifty (50) percent of amounts provided under a grant to LEAs ~~[local districts]~~ shall be used to provide primary services of tutoring, remedial education services, or other education services to homeless children or unaccompanied youth.

(3) ~~[(2)]~~ Not less than thirty-five (35) nor more than fifty (50) percent of amounts provided to LEAs ~~[local districts]~~ shall be used for related activities for homeless children or unaccompanied youth including expedited evaluations, professional development for school personnel, referrals for medical, dental, mental and other health services, transportation, before- and after-school care, and school supplies.

(4) ~~[(3)]~~ An LEA ~~[A local district]~~ that desires to receive a grant shall submit an application to the department ~~[Kentucky Department of Education]~~. Each application shall include:

(a) The number of homeless children and unaccompanied youth enrolled in preschool, elementary and secondary school, the needs of ~~the[such]~~ children, and the ability of the LEA ~~[district]~~ to meet these needs;

(b) A description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of ~~the[such]~~ services and programs (i.e., enrollment, retention, and educational success);

(c) An assurance that assistance under the grant shall supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and unaccompanied youth;

(d) A description of policies and procedures that the LEA ~~[district]~~ shall implement to ensure that activities carried out by the LEA ~~[district]~~ shall not isolate or stigmatize homeless children and unaccompanied youth;

(e) A description of coordination with other local and state agencies that serve homeless children and unaccompanied youth; and

(f) Other criteria the department ~~[Kentucky Department of Education]~~ deems appropriate.

Section 7. Ensuring Educational Stability for Children in Foster Care. (1) Each LEA shall:

(a) Designate a person to be the foster care liaison;

(b) Submit the name of the foster care liaison to the department; and

(c) Allocate sufficient time to the foster care liaison to perform required responsibilities.

(2) The foster care liaison may also be the homeless child education liaison.

(3) The foster care liaison shall ensure that:

(a) A child in foster care enrolls or remains in his school of origin, unless it is determined that remaining in the school of origin is not in the child's best interest;

(b) If it is determined that it is not in the child's best interest to remain in his school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment; and

(c) The enrolling school immediately contacts the child's school of origin to obtain relevant academic and other records.

(4) LEAs shall develop and implement clear written procedures that comply with 20 U.S.C. 6312(c)(5)(B) and govern how transportation shall be provided, arranged, and funded to maintain a child in foster care in the school of origin, unless it is determined that remaining in the school of origin is not in the child's best interest.

CONTACT PERSON: Todd G. Allen, Interim 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, May 12, 2020)**

806 KAR 5:025. Credit for reinsurance.

RELATES TO: KRS 304.5-140

STATUTORY AUTHORITY: KRS 304.2-110, 304.5-140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner to make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of [provides that the Commissioner [Executive Director] of Insurance may promulgate administrative regulations necessary to implement] the Kentucky Insurance Code, KRS Chapter 304. KRS 304.5-140 authorizes the commissioner to promulgate administrative regulations to implement the provisions of that section. This administrative regulation implements KRS 304.5-140 by establishing credit for reinsurance.

Section 1. Definitions. ~~[As used in this section:]~~

(1) "Beneficiary" means:

(a) The entity for whose sole benefit the trust has been

established and any successor of the beneficiary by operation of law; and

(b) If a court of law appoints a successor in interest to the named beneficiary, the named beneficiary shall be the court appointed domiciliary receiver, including the conservator, rehabilitator, or liquidator.

(2) "Evergreen clause" means ~~[mans]~~ a provision in a letter of credit or its confirmation that prevents the expiration of the letter of credit or its confirmation without written notice to the beneficiary from the issuing or confirming bank or trust company as provided by this administrative regulation.

(3) "Grantor" means:

(a) The entity that has established a trust for the sole benefit of the beneficiary; and

(b) If the trust is established in conjunction with a reinsurance agreement, the unlicensed, unaccredited assuming insurer.

(4) "***Liabilities***" means ***the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means.***

(5) "Mortgage-related security" means an obligation that is rated AA or higher, ~~[f]or the equivalent,~~ by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that ~~[either]:~~

(a) Represents ownership of one (1) or more promissory notes or certificates of interest or participation in the notes, ~~[i]ncluding any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates, or participation]~~, that:

1. Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

2. Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C. Sections 1709 and 1715b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C. Section 1703; or

(b) Is secured by one (1) or more promissory notes or certificates of deposit or participations ~~[participants]~~ in the notes, ~~[w]ith or without recourse to the insurer of the notes,~~ and ~~[i]n its terms,~~ provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of **paragraph [Items] (a)(1) and (a)(2)** of this subsection.~~;~~

~~(6)(5)(3)~~ "Evergreen clause" mans a provision in a letter of credit or its confirmation that prevents the expiration of the letter of credit or its confirmation without written notice to the beneficiary from the issuing or confirming bank or trust company as provided by this administrative regulation.

(4) "Obligations" ~~[, as used in Section 8(2)(11)(c) of this administrative regulation,]~~ means:

(a) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

(b) Reserves for reinsured losses reported and outstanding;

(c) Reserves for reinsured losses incurred but not reported; and

(d) Reserves for allocated reinsured loss expenses and unearned premiums.

~~(7)(6)~~ "Promissory note~~;~~" means, when used in connection with a manufactured home, ~~[shall also include]~~ a loan, or advance or credit sale, as evidenced by a retail installment sales contract or other instrument.

Section 2. Reinsurer Licensed in Kentucky. The commissioner

shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is authorized to transact insurance or reinsurance in Kentucky as of any date on which statutory financial statement credit for reinsurance is claimed.

Section 3. Accredited Reinsurers. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in Kentucky as of the date on which statutory financial statement credit **for reinsurance** is claimed.

(1) To gain accreditation, a reinsurer shall:

(a) File a properly executed Form AR-1 as evidence of its submission to Kentucky's jurisdiction and authority to examine its books and records;

(b) File a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one (1) state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(c) File annually a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

(d) Maintain a surplus as regards policyholders in an amount not less than \$20,000,000, or obtain affirmative approval of the commissioner upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

(2) If the commissioner determines that the assuming insurer has failed to meet or maintain any of the qualifications established by Section 3(1), the commissioner may suspend or revoke the accreditation.

(3) Credit shall not be allowed a domestic ceding insurer under this section if the assuming insurer's accreditation has been revoked by the commissioner, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the commissioner.

Section 4. Reinsurer Domiciled in Another State. The commissioner shall allow **[a]** credit for reinsurance ceded by a domestic insurer to an assuming insurer that satisfies all requirements of KRS 304.5-140(3)(c) and files a properly executed Form AR-1.

Section 5. Reinsurers Maintaining Trust Funds. (1) The commissioner shall allow **[a]** credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount ***in accordance with this section [prescribed below]*** in a qualified U.S. financial institution as defined in KRS 304.5-140(1)(b), for the payment of valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

(2) Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall satisfy all requirements of KRS 304.5-140(1)(d)(5), (6), and include that contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of

any court of competent jurisdiction in the United States.

(3) (a) Notwithstanding any other provision in the trust agreement, if the trust fund is inadequate because it contains an amount less than the amount required by this **section**, **[subsection]** or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

(b) The assets shall be distributed, **[by]** and claims shall be filed with and valued, by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

(c) If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

(d) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

(4) ***Liabilities [For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and,]*** shall include:

(a) For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

1. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;

2. Reserves for losses reported and outstanding;

3. Reserves for losses incurred but not reported;

4. Reserves for allocated loss expenses; and

5. Unearned premiums.

(b) For business ceded by domestic insurers authorized to write life, health and annuity insurance:

1. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;

2. Aggregate reserves for accident and health policies;

3. Deposit funds and other liabilities without life or disability contingencies; and

4. Liabilities for policy and contract claims.

(5) Assets deposited in trusts established pursuant to KRS 304.5-140(3)(d) and this section shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution, as defined in KRS 304.5-140(1)(a), clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in KRS 304.5-140(1)(a), and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or beneficiary of the trust shall not exceed five (5) percent **[(5%)]** of total investments. No more than twenty (20) percent **[(20%)]** of the total of the investments in the trust **shall [may]** be foreign investments authorized under paragraphs (a)5., (c), (e)2., **[(2)]** or (f) of this subsection, and no more than ten (10) percent **[(10%)]** of the total of the investments in the trust **shall [may]** be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of KRS 304.5-140 shall be invested only as follows:

(a) Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed, or guaranteed by:

1. The United States or by any agency or instrumentality of the United States;

2. A state of the United States;

3. A territory, possession, or other governmental unit of the United States;

4. An agency or instrumentality of a governmental unit referred to in subparagraphs 2. **[(2)]** and 3. **[(3)]** of this paragraph if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or

5. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

(b) Obligations that are issued in the United States, or that are dollar denominated and issued in a non U.S. market, by a solvent U.S. institution, **[(other than an insurance company,)]** or that are assumed or guaranteed by a solvent U.S. institution, **[(other than an insurance company,)]** and that are not in default as to principal or interest if the obligations:

1. Are rated A or higher, **[(for the equivalent,)]** by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;

2. Are insured by at least one (1) authorized insurer, **[(other than the investing insurer or a parent, subsidiary, or affiliate of the investing insurer,)]** licensed to insure obligations in this state and, after considering the insurance, are rated AAA, **[(for the equivalent,)]** by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or

3. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

(c) Obligations issued, assumed, or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

(d) An investment made pursuant to the provisions of paragraph (a), (b), or (c) of this subsection shall be subject to the following additional limitations:

1. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five (5) percent **[(5%)]** of the assets of the trust;

2. An investment in any one (1) mortgage-related security shall not exceed five (5) percent **[(5%)]** of the assets of the trust;

3. The aggregate total investment in mortgage-related securities shall not exceed twenty-five (25) percent **[(25%)]** of the assets of the trust; and

4. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under paragraphs (b)1. **[(1-)]** and (b) 3. **[(3-)]** of this subsection, but shall not exceed two (2) percent **[(2%)]** of the assets of the trust.

(e) Equity Interests.

1. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:

a. Its obligations and preferred shares, if any, are eligible as investments under this subsection; and

b. The equity interests of the institution, **[(except an insurance company,)]** are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a to 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this

paragraph an amount exceeding one ~~(1)~~ percent ~~[(1%)]~~ of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

2. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

a. All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

b. The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

3. An investment in or loan upon any one ~~(1)~~ institution's outstanding equity interests shall not exceed one ~~(1)~~ percent ~~[(1%)]~~ of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten ~~(10)~~ percent ~~[(10%)]~~ of the assets in the trust;

(f) Obligations issued, assumed, or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(g) Investment Companies.

1. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. § 80a, are permissible investments if the investment company:

a. Invests at least ninety ~~(90)~~ percent ~~[(90%)]~~ of its assets in the types of securities that qualify as an investment under paragraph (a), (b), or (c) of this subsection or invests in securities that are determined by the commissioner to be substantively similar to the types of securities set forth in paragraph (a), (b), or (c) of this subsection; or

b. Invests at least ninety ~~(90)~~ percent ~~[(90%)]~~ of its assets in the types of equity interests that qualify as an investment under paragraph (e) ~~1.[(1)]~~ of this subsection;

2. Investments made by a trust in investment companies under this paragraph shall not exceed the following limitations:

a. An investment in an investment company qualifying under subparagraph ~~1.a. [(1)(a)]~~ of this paragraph shall not exceed ten ~~(10)~~ percent ~~[(10%)]~~ of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five ~~(25)~~ percent ~~[(25%)]~~ of the assets in the trust; and

b. Investments in an investment company qualifying under subparagraph ~~1.b. [(1)(b)]~~ of this paragraph shall not exceed five ~~(5)~~ percent ~~[(5%)]~~ of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to paragraph (e) ~~1.[(1)]~~ of this subsection.

(h) Letters of Credit.

1. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement, ~~[f]as duly approved by the commissioner[f]~~, to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

2. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where ~~a [such]~~ draw would be required shall be deemed to be negligence, willful misconduct, or both.

(6) A specific security provided to a ceding insurer by an assuming insurer pursuant to Section 7 [8] of this **administrative** regulation shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

Section 6. Certified Reinsurers. (1) The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of KRS 304.5-140(3)(e) and Sections 10, 11, ~~or [and]~~ 12 of this **administrative** regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

(a) Ratings	Security Required:
Secure – 1	0%;
Secure – 2	10%;
Secure – 3	20%;
Secure – 4	50%;
Secure – 5	75%; and
Vulnerable – 6	100%.

(b) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(c) The commissioner shall require the certified reinsurer to post **100% security [one hundred percent (100%)]**, for the benefit of the ceding insurer or its estate, ~~[security]~~ upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

(d) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one ~~(1)~~ year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. The one ~~(1)~~ year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence **shall [will]** be included in the deferral:

1. Line 1: Fire;
2. Line 2: Allied Lines;
3. Line 3: Farmowners multiple peril;
4. Line 4: Homeowners multiple peril;
5. Line 5: Commercial multiple peril;
6. Line 9: Inland Marine;
7. Line 12: Earthquake; and
8. Line 21: Auto physical damage.

(e) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(f) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

(2) Certification process.

(a) Upon receipt of an application for certification, the commissioner shall promptly post notice at insurance.ky.gov, including instructions on how members of the public may respond to the application.

(b) No fewer than thirty (30) days after posting the notice required by ~~[this]~~ paragraph ~~(a) of this subsection~~, the commissioner shall issue written notice **to an assuming insurer that has made application and been approved as a [ef-approval to the applying]** certified reinsurer, which shall include the rating assigned the certified reinsurer in accordance with subsection ~~(1)(1)~~ of this section.

(c) To be eligible for certification, the assuming insurer shall:

1. Be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the commissioner pursuant to subsection ~~(3)(3)~~ of this section.

2. Maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated in accordance with subparagraph ~~(d)8.(8)~~ of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents, ~~[f]net of liabilities,[f]~~ of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.

3. Maintain financial strength ratings from two ~~(2)~~ or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings ~~shall [will]~~ be one ~~(1)~~ factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- a. Standard & Poor's;
- b. Moody's Investors Service;
- c. Fitch Ratings;
- d. A.M. Best Company; or
- e. Any other Nationally Recognized Statistical Rating Organization.

4. Comply with any other requirements reasonably imposed by the commissioner.

~~(d)~~ Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors considered as part of the evaluation process ~~shall [may]~~ include:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two ~~(2)~~ financial strength ratings from acceptable rating agencies ~~shall [will]~~ result in loss of eligibility for certification; ~~[-]~~

2. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

3. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F or Schedule S;

4. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F or Form CR-S;

5. The reputation of the certified reinsurer for prompt payment of claims under reinsurance[~~]~~

Section 2. Requirements for Trust[~~]~~ agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

6. Regulatory actions against the certified reinsurer;

7. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subparagraph ~~8. of this paragraph [(8) below]~~;

8. For certified reinsurers not domiciled in the U.S., audited financial statements, regulatory filings, and actuarial opinion, ~~[f]as filed with the non-U.S. jurisdiction supervisor, with a translation into English[.]~~. Upon the initial application for certification, the commissioner ~~shall [will]~~ consider audited financial statements for the last two (2) years filed with its non-U.S. jurisdiction supervisor;

9. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

10. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The commissioner shall receive prior notice from a

certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

11. Any other information deemed relevant by the commissioner.

~~(e)~~ Based on the analysis conducted under subparagraph ~~(d)5.[(5)]~~ of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one ~~(1)~~ rating level under subparagraph ~~(d)1.[(1)]~~ if the commissioner finds that:

1. More than fifteen ~~(15)~~ percent ~~[(15%)]~~ of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed \$100,000 for each cedent; or

2. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety (90) days or more exceeds \$50,000,000.

~~(f)~~ The assuming insurer shall submit a properly executed Form CR-1 as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for ~~100% [one hundred percent (100%)]~~ of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

~~(g)~~ The certified reinsurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers ~~that is [which are]~~ not otherwise public information subject to disclosure shall be exempted from disclosure under the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

1. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing ~~the [such]~~ changes and the reasons therefore;

2. Annually, Form CR-F or CR-S, as applicable;

3. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subsection ~~(4) of this section [below]~~;

4. Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion, ~~[f]as filed with the certified reinsurer's supervisor, with a translation into English[.]~~. Upon the initial certification, audited financial statements for the last two (2) years filed with the certified reinsurer's supervisor;

5. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

6. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

7. Any other information that the commissioner may reasonably require.

~~(h)~~ Change in Rating or Revocation of Certification.

1. In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall, upon written notice, assign a new rating to the certified reinsurer in accordance with the requirements of subparagraph ~~(d)1.[(1)]~~.

2. The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the

commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

3. If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

4. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Section 7 of this administrative regulation [44] in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 5 of this administrative regulation, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of the [such] funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer shall [may] not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

(i) The commissioner shall publish a list of all certified reinsurers and their ratings.

(3) Qualified Jurisdictions. (a) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of [such] recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(b) To determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The commissioner shall determine the appropriate approach for evaluating the qualifications of the [such] jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commissioner as eligible for certification. A qualified jurisdiction shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commissioner, include:

1. The framework under which the assuming insurer is regulated.

2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

3. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

4. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

5. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the commissioner in particular.

6. The history of performance by assuming insurers in the domiciliary jurisdiction.

7. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction shall [will] not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration

awards.

8. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

9. Any other matters deemed relevant by the commissioner.

(c) A list of qualified jurisdictions shall be published through the NAIC Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under subsection (3)(b)1. to 9. of this section [6(3)(e)(1) to (9)].

(d) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(4) Recognition of Certification Issued by an NAIC Accredited Jurisdiction. (a) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR1 and any [such] additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

(b) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commissioner of any change in its status or rating within ten (10) [40] days after receiving notice of the change.

(c) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subsection (2)(h) of this section.

(d) The commissioner may withdraw recognition of the other jurisdiction's certification at any time by providing[, with] written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with subsection (2)(h) of this section, the certified reinsurer's certification shall remain in good standing in this state for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

(5) Mandatory Funding Clause. In addition to the clauses required under Section 13 of this administrative regulation, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(6) The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Section 7. (1) Pursuant to KRS 304.5-140(4), the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of KRS 304.5-140(3) in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with the [such] assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in KRS 304.5-140(1)(b). This security shall [may] be in the form of any of the following:

(a) Cash;

(b) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and

qualifying as admitted assets:

(c) Clean, irrevocable, unconditional and “evergreen” letters of credit issued or confirmed by a qualified United States institution, as defined in KRS 304.5-140(10)(a), effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance ~~[(for confirmation)]~~ shall, notwithstanding the issuing ~~[(for confirming)]~~ institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(d) Any other form of security acceptable to the commissioner.

(2) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of Section 13 of this administrative regulation and the applicable portions of Sections 10, 11, or 12 of this administrative regulation have been satisfied.

Section 8. Requirements for Trust Agreements. Qualified under KRS 304.5-140(3). (1) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee which shall be a qualified United States financial institution as defined in KRS 304.5-140(1)(b) ~~[(a)]~~.

(2) The trust agreement shall create a trust account into which assets shall be deposited.

(3)(a) Except as provided by paragraph (b) of this subsection, assets in the trust account shall be held by the trustee at the trustee's office in the United States.

(b) A bank may apply for the executive director's permission to use a foreign branch office of the bank as trustee for trust agreements. If the executive director approves the use of a foreign branch office as trustee, its use shall be approved by the beneficiary in writing. The trust agreement shall provide that the written notice described in subsection (4)(a) of this section shall be presentable, as a matter of legal right, at the trustee's principal office in the United States.

(4) The trust agreement shall provide that:

(a) The beneficiary shall:

1. Have the right to withdraw assets from the trust account at any time after giving written notice to the trustee; and

2. Not be required to give notice to the grantor;

(b) The beneficiary:

1. May be required to acknowledge receipt of withdrawn assets; and

2. Shall not be required to present other statements or documents in order to withdraw assets.

(c) The agreement shall not be subject to conditions or qualifications outside of the trust agreement; and

(d) The agreement shall not contain references to other agreements or documents except as provided by subsection (11) of this section.

(5) The trust agreement shall be established for the sole benefit of the beneficiary.

(6) The trust agreement shall require the trustee to:

(a) Receive and hold all assets in a safe place;

(b) Determine that all assets are in a [such] form that the beneficiary, or the trustee upon direction by the beneficiary, may negotiate any assets whenever necessary, without consent or signature from the grantor or any other person or entity;

(c) Furnish to the grantor and the beneficiary a statement of all assets in the trust account both at the inception and at intervals no less frequent than the end of each calendar quarter;

(d) Notify the grantor and the beneficiary within ten (10) days ~~[()]~~ of any deposits to or withdrawals from the trust account;

(e) Upon written demand of the beneficiary, immediately take all steps necessary to:

1. Transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary; and

2. Deliver physical custody of the assets to the beneficiary; and

(f) Allow no substitutions or withdrawals of assets from the trust account, except upon:

1. Written instructions from the beneficiary; or

2. The call or maturity of a trust asset, in which case the trustee may withdraw the asset so long as the proceeds are paid into the trust account without the consent of the beneficiary and after notice to the beneficiary.

(7) The trust agreement shall provide that at least thirty (30) days, but not more than ~~forty-five~~ [fortyfive] (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to or reimbursing the expenses of the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement, [(as duly approved by the commissioner)], to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct, or lack of good faith.

(11)(a) The trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer for the purposes permitted by paragraphs (b) through (d) of this subsection, if:

1. A trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health; and

2. It is customary practice to provide a trust agreement for a specific purpose.

(b) To pay or reimburse the ceding insurer for the:

1. Assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer; or

2. Unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

(c) To make payment to the assuming insurer of any amounts held in the trust account that exceed 102% [102 percent] of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

(d) 1. To withdraw amounts equal to the obligations and deposit them in a separate account as provided by subparagraph 2, of this paragraph, if the:

a. Ceding insurer has received notification of termination of the trust account; and

b. Assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date.

2. Amounts withdrawn pursuant to subparagraph 1, of this paragraph shall be deposited:

a. In the name of the ceding insurer; and

b. In a qualified United States financial institution, as defined in KRS 304.5-140(1), apart from its general assets; and

c. In trust for the uses and purposes specified in paragraphs (a) and (b) of this subsection that may remain executory after the withdrawal for any period after the termination date [()]

(12) The reinsurance agreement entered into in conjunction with the trust agreement may contain the provisions required by Section 10[4](1)(b) of this administrative regulation, so long as the conditions required by this section are included in the trust agreement.

(13) ~~[(Either)]~~ The reinsurance agreement or trust agreement shall [may] stipulate that assets deposited in the trust account shall be valued according to their [their] current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United

States dollars, and investments permitted by the Insurance Code, or any combination thereof [of the above], provided investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or the beneficiary of the trust shall not exceed five (5) percent [(5%)] of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities, or accident and health risks, then the provisions required by this paragraph shall [must] be included in the reinsurance agreement.

Section 9[3]. Permitted Conditions for Trust Agreements Qualified under KRS 304.5-140(3). (1) The trust agreement may provide that the:

- (a) Trustee may resign only if written notice of resignation is:
 1. Given to the beneficiary and grantor; and
 2. Effective not less than ninety (90) days after receipt of the notice.
- (b) Grantor may remove the trustee if written notice is:
 1. Given to the trustee and beneficiary;
 2. Effective not less than ninety (90) days after receipt of the notice;
- (c) Resignation or removal of the trustee shall not be effective until:
 1. A successor trustee has been duly appointed and approved by the beneficiary and the grantor; and
 2. All assets in the trust have been duly transferred to the new trustee.
- (2)(a) The grantor may have the full and unqualified right to:
 1. Vote any shares of stock in the trust account; and
 2. Receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account.
- (b) Interest or dividends shall be:
 1. Forwarded promptly upon receipt to the grantor; or
 2. Deposited in a separate account established in the grantor's name.
- (3) The trustee may be given authority to invest and accept substitutions of funds in the account with prior approval of the beneficiary, unless the trust agreement:
 - (a) Specifies categories of investments acceptable to the beneficiary; and
 - (b) Authorizes the trustee to invest funds[,] and accept substitutions that the trustee determines are:
 1. At least equal in market value to the assets withdrawn; and
 2. Consistent with the restrictions in Section 10[4](1)(b) of this administrative regulation.
- (4) The trust agreement may:
 - (a) Provide that the beneficiary may designate a party to which all or part of the trust assets are to be transferred; and
 - (b) Condition the transfer upon the trustee receiving, prior to or simultaneously, other specified assets.
- (5) The trust agreement may provide upon termination of the trust account that all assets not previously withdrawn by the beneficiary shall be delivered over to the grantor with written approval by the beneficiary.

Section 10[4]. Additional Conditions for Reinsurance Agreements Qualified under KRS 304.5-140(3). (1) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

- (a) Require the assuming insurer to:
 1. Enter into a trust agreement;
 2. Establish a trust account for the benefit of the ceding insurer; and
 3. Specify what the agreement is to cover.
- (b) Except as provided by paragraph (e) of this subsection, stipulate that assets deposited in the trust account shall:
 1. Be valued according to the current fair market value of the assets; and
 2. Consist of:
 - a. Cash that is United States legal tender;
 - b. Certificates of deposit, issued by a United States bank and

payable in United States legal tender;

- c. Investments permitted by the insurance code; or
- d. A combination of the assets [items] specified in clauses [subparagraphs] a₂ through c₂ of this subparagraph [paragraph];
- (c) As provided by paragraph (b) of this subsection, specify the types of investments to be deposited.

(d) Investments permitted by paragraph (b) of this subsection shall be issued by an institution that is not the parent, subsidiary, or affiliate of the grantor or beneficiary.

(e) If a trust agreement is entered into in conjunction with a reinsurance agreement that covers risks other than life, annuities, or [and] accident and health, the trust agreement, rather than the reinsurance agreement, may contain the provisions required by paragraphs (c) and (d) of this subsection.

(f) Require the assuming insurer, prior to depositing assets with the trustee, to:

1. Execute assignments or endorsements in blank; or
2. Transfer legal title to the trustee of shares, obligations, or other assets requiring assignments, so that the ceding insurer, or the trustee on the direction of the ceding insurer, may negotiate the assets without the consent or signature of the assuming insurer or any other entity whenever necessary.

(g) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

(h)1. As provided by subparagraph 2 of this paragraph, stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement.

2. The assets shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of the [such] company, without diminution because of insolvency on the part of the ceding insurer or the assuming[as-suming] insurer, only for the following purposes:

- a. To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of the policies;
- b. To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;
- c. To fund an account with the ceding insurer in an amount at least equal to the deduction for reinsurance ceded from the ceding insurer liabilities for policies ceded under the agreement. The account shall include [but not be limited to] amounts for policy reserves, claims and losses incurred, [i]including losses incurred but not reported[j], loss adjustment expenses, and unearned premium reserves; and
- d. To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(2) The reinsurance agreement may also contain provisions that:

(a) Give the assuming insurer the right to seek approval from the ceding insurer to withdraw all or [a] part of the trust assets from the trust account and transfer the withdrawn assets to the assuming insurer provided that:

1. The assuming insurer shall at the time of withdrawal replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain the deposit in the required amount at all times; or
2. After withdrawal and transfer, the market value of the trust account is no less than 102% [percent] of the required amount.
3. The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

(b) Provide for:

1. The return of any amount withdrawn in excess of the actual amounts required for subsection (1)(h)1₂, 2₂, and 3₂ of this section or for payments under subsection (1)(h)4₂ of this section, amounts that are subsequently determined not to be due; and

2. Interest payments at a rate not in excess of the prime rate of interest on the amounts held pursuant to subsection (1)(e)3.

(c) Permit the award by an arbitration panel or court of competent jurisdiction of:

1. Interest at a rate different from that provided in paragraph (b)2₂ of this subsection;
2. Court ~~or [of]~~ arbitration costs;
3. Attorney's fees; and
4. Other reasonable expenses.

(3)(a) If established on or before the date of filing the financial statement of the ceding insurer, a trust agreement may be used to reduce a liability for reinsurance ceded to an unauthorized ~~assuming[assum-ing]~~ insurer in financial statements that are required to be filed with the office pursuant to this administrative regulation.

(b) The amount of a reduction for the existence of an acceptable trust account:

1. May be lesser than or equal to the current fair market value of acceptable assets that are available to be withdrawn from the trust account at the time of withdrawal; and
2. Shall not be greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(4) A trust agreement or underlying reinsurance agreement in existence prior to January 1, 1996, shall:

- (a) Be acceptable until January 1, 1997; and
- (b) Beginning January 1, 1997, not be acceptable if it does not comply with the provisions of this administrative regulation.

(5) The failure of a trust agreement to specifically identify the beneficiary shall not be construed to affect actions or rights which the ~~commissioner[executive-director]~~ may take or possess pursuant to the provisions of the laws of this state.

Section 11[5]. Letters of Credit Qualified under KRS 304.5-140(3). (1) A letter of credit shall:

- (a) Be clean, irrevocable, and unconditional;
- (b) Issued or confirmed by a qualified United States financial institution;
- (c) Contain an issue date, and date of expiration;
- (d) State that it is not subject to a condition or qualification not contained in the letter of credit;
- (e) Stipulate that in order to obtain funds, the beneficiary need only draw and present a sight draft under the letter of credit; and
- (f) Except as provided by subsection (9)(a) of this section, not contain a reference to other agreements, documents, or entities.

(2) The heading of a letter of credit may include a boxed section that:

- (a) Contains the name of the applicant, and other appropriate notations that provide a reference for the letter of credit; and
- (b) Is clearly marked to indicate that the information is only for internal identification purposes.

(3) The letter of credit shall contain a statement that the obligation of the qualified United States financial institution under the letter of credit is not contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit shall be for at least one (1) year and shall contain an evergreen clause. The evergreen clause shall provide for a period of not less than thirty (30) days' notice prior to the date of expiration or nonrenewal.

(5) The letter of credit shall state:

- (a) Whether it is governed by the:
 1. Laws of Kentucky; [or]
 2. ["Publication 500", of] The Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600;

3. International Standby Practices of the International Chamber of Commerce Publication 590; or

4. Any successor publication; and

(b) That a draft drawn under the letter of credit shall be presentable at an office in the United States of a qualified United States financial institution.

(6) A letter of credit shall provide for an extension of time to draw against it if it:

(a) Is made subject to subsection [paragraph] (5)(a)2₂, 3₂, or 4. of this section[above] ["Publication 500" of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce]; and

(b) An occurrence specified in Article 36[49] of "Publication 600[500]" of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce occurs.

(7) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to KRS 304.5-140(1)(a).

(8) If a letter of credit is issued by a [qualified] United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution described in subsection (7) of this section, the following additional requirements shall be met:

(a) The issuing [qualified] United States financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

(b) The evergreen clause shall provide for thirty (30) days' notice prior to expiration date for nonrenewal.

(9) Reinsurance agreement provisions.

(a) The reinsurance agreement for which the letter of credit is obtained may contain provisions that:

1. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what shall be covered [they are to cover].

2. Stipulate that the assuming insurer and ceding insurer shall agree that, the letter of credit provided by the assuming insurer [insure] pursuant to the provisions of the reinsurance agreement:

a. May be drawn upon at any time, notwithstanding other provisions in the agreement; and

b. Shall be utilized by the ceding insurer or its successors in interest only for one (1) or more of the reasons specified in subparagraph 3 of this paragraph.

3.a. To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the [such] policies;

b. To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

c. To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement; and

d. To pay other amounts the ceding insurer claims are due under the reinsurance agreement.

4. The provisions of this paragraph ~~[(a) of this subsection]~~ shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(b) Nothing contained in paragraph (a) of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

1. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to paragraph (a)2₂[(a)3c] of this subsection; or

2. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the reasons established in paragraph (a)3.a. through 3c. of this subsection [above] or, in the case of paragraph (a)3₂d₂ of this subsection, any amounts that are subsequently determined not to be due.

(c) In lieu of the stipulation permitted by paragraph (a)2₂ of this subsection, a reinsurance agreement may require that the parties enter into a "Trust Agreement", that may be incorporated into the reinsurance agreement or be a separate document, if:

1. A letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health; and

2. It is customary practice to provide a letter of credit for a specific purpose.

(10)(a) A letter of credit shall not be used to reduce a liability

for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement.

(b) The reduction for the letter of credit may be up to the amount available under the letter of credit but not greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

Section 12[6]. Other Security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

Section 13[7]. Reinsurance Contract. Upon the effective date of this administrative regulation, credit shall not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of KRS 304.5-140 unless the reinsurance agreement includes a:

- (1) Proper insolvency clause pursuant to KRS 304.5-140(5) and 304.33-350 of the Insurance Code; and
- (2) Provision pursuant to KRS 304.5-140(2)(f), if the assuming insurer, is an unauthorized assuming insurer, and has:
 - (a) Submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States;
 - (b) Agreed to comply with all requirements necessary to give the court or panel jurisdiction;
 - (c) Designated an agent upon whom service of process may be effected; and
 - (d) Agreed to abide by the final decision of the court or panel.

Section 14[8]. Contracts Affected. All new and renewal reinsurance transactions entered into after the effective date of this [the] administrative regulation shall conform to the requirements[An assuming reinsurer shall file a "Certificate of Assuming Insurer," Form AR-1:

- (1) To become accredited pursuant to KRS 304.5-140; and
- (2) As evidence[of KRS 304.5-140 and this administrative regulation if credit is[its submission to the jurisdiction of Kentucky and] to be given to the ceding insurer for [such] reinsurance[its authority to examine its books and records pursuant to KRS 304.5-140(2)(b)1].

Section 15[9]. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Certificate of Assuming Insurer," Form AR-1 December 95; [and]
- (b) "Certificate of Certified Reinsurer," Form CR-1 (09/19);
- (c) "Form CR-F" (09/19); and
- (d) "Form CR-S" (09/19)"[is incorporated by reference].

(2) It may be inspected, copied, or obtained from the Department[Office] of Insurance, 500 Mero St.[P.O. Box 517, 215 West Main Street], Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.].

Section 10. Contracts Affected. All new and renewal reinsurance transactions entered into after the effective date of the administrative regulation shall conform to the requirements of the Act and this administrative regulation if credit is to be given to the ceding insurer for such reinsurance.]

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PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, May 12, 2020)

815 KAR 20:191. Minimum fixture requirements.

RELATES TO: KRS 58.200, 162.062, 318.160

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130

requires the department[~~after approval by the State Plumbing Code—Committee;~~] to promulgate ~~[an]~~ administrative regulations[regulation] establishing the Kentucky State Plumbing Code regulating the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers and private water supplies, and[including] the methods and materials that may be used in Kentucky. ~~[KRS 58.200(2) requires newly-constructed public buildings to be equipped with twice the number of restroom facilities for use by women as is provided for use by men.]~~ This administrative regulation establishes the minimum plumbing fixture requirements for buildings in Kentucky.

Section 1. ~~[Definitions. (1) "Developed travel distance" means the length of a pathway measured along the center line of the path.~~

~~(2) "Mobile facility" means a vehicle licensed and registered with the Kentucky Department of Transportation that contains plumbing fixtures and is intended for temporary use with regard to the structure it serves.~~

~~(3) "Modular" means a structure or component that is wholly or in substantial part fabricated in an off-site manufacturing facility for installation at the building site.~~

~~(4) "Temporary" means a period of time not to exceed thirty (30) days of intermittent or continual use within a twelve (12) month period on the same premises.~~

Section 2.] General Requirements.

(1) In a building accommodating males and females, it shall be presumed that the occupants will be equally divided between males and females, unless otherwise denoted on the plan application documents.

(2) The occupancy load factor used to determine the total number of plumbing fixtures required in a building shall be the load denoted in the Kentucky Building Code, incorporated by reference in 815 KAR 7:120.

(3) All types of buildings shall be provided with toilet rooms on each level or floor, unless:

(a) Separate facilities on each level or floor are unnecessary; and

(b) Toilet rooms on every other level or floor shall be sufficient.

(4) Unisex Facilities in Historic Buildings. A building or structure that is listed in the National Register of Historic Places or designated as historic under Kentucky statute may provide the required number of plumbing fixtures in unisex facilities if the overall occupant load is 100 persons or less, except as required in swimming pool bathhouses, park services buildings, and bathhouses in Group B, public garages in Group S-2, Group E buildings, dormitories in Group R-2, Group I-2 buildings, and Group I-3 buildings[Sections 7, 8, 9, 12, 13, 15, 16, and 17 of this administrative regulation].

(5) Unisex facilities in historic buildings permitted by this section shall not be required to provide [the] urinals.

(6) Toilet rooms for males, females, and unisex shall be clearly marked.

(7) Upon written request, the department shall permit the temporary use of a mobile facility in accordance with this administrative regulation. The written request shall be submitted to the division ~~[of Plumbing]~~ and shall include the:

(a) Name of the owner;

(b) Address of the location of the building being served by the mobile facilities; and

(c) Dates for which the mobile facilities are to be used.

(8) Water closet type. All water closets in public restrooms shall be of an elongated bowl type with a split open front seat.

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(9) Service sinks. (a) One (1) service sink shall be required on each floor of a public building unless otherwise approved by the department.

(b) A request for exemption of a service sink shall be submitted in writing to the division.

(c) The division shall respond in writing to the requester either granting or denying the exemption request.

(d)1. The division shall determine whether to grant or deny the exemption request based upon if the request increases the sanitation risk to the building.

2. The division's decision shall be made on a case-by-case basis.

3. The division shall consider factors such as:

a. If the building requires the mopping of floors, cleaning of surfaces, or is carpeted; and

b. If there are public restrooms that require mopping and cleaning on a particular floor.

(10) Urinal Substitution. A urinal may be substituted for a water closet for males if the substituted urinals do not exceed one third (1/3) of the required number of water closets for males.

(11) Public Facilities.

(a) Sanitary facilities shall be provided for the public if the building contains 5,000 square feet or more.

(b) In a mall or shopping center, the required facilities, based

on one (1) person per 100 square feet of total area, shall be installed in individual stores or in a central toilet room area or areas, if:

1. The distance from the main entrance of a store does not exceed 500 feet; and

2. The toilet room area is accessible to physically disabled persons.

Section **2.[3.]** Toilet Floor Construction Requirements.

(1) Floors in toilet rooms shall be constructed of nonabsorbent materials.

(2) If a wood floor is used, the wood floor shall be covered by other nonabsorbent materials.

(3) If two (2) or more fixtures that receive human waste are installed and a wood floor is not used, the toilet room shall have at least:

(a) One (1) floor drain; and

(b) One (1) accessible hose bibb.

Section **3.[4.]** Fixture Requirements.

(1) The following chart shall provide the water closet, lavatory, drinking fountain, and urinal requirements for different occupancy groups.

Occupancy Group	Examples	Water Closet (males) ^a	Water Closet (females) ^a	Lavatories (male) ^a	Lavatories (female) ^a	Drinking Fountain ^b	Urinals (males) ^a
A-1	Theaters, movie theaters, and similar buildings	1 per up to 100; 2 for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	1 for up to 50; 2 for 51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 per 500 on every floor	1 for 11 to 100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterward
A-2	Banquet halls, casinos, dance halls, night clubs, restaurants, cafeterias, taverns, and bars	1 per up to 200; 2 for 201 to 400; 1 per additional 200 afterwards	1 per up to 100; 2 for 101 to 200; 1 per additional 200 afterwards	1 per 200	1 per 200	1 per 100 unless water stations are provided	1 for 50 to 200; 1 per additional 150 afterwards
A-3	Libraries, museums, and art galleries	1 per 200	1 per 100	1 per 200	1 per 100	1 per 500	1 for 11 to 200; 2 for 201 to 400; 3 for 401 to 600; and 1 for each additional 300 afterward
	Assembly halls and similar buildings	1 per up to 100; 2 for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	1 for up to 50; 2 for 51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 per 500 on every floor	1 for 11 to 100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterward
	Places of worship	1 per 300	1 per 150	1 per 200	1 per 200	1 per 400	1 for 50 to 150; 1 for each additional 150 afterwards
A-4	Structures for indoor sporting events and activities	1 for 100; 2 for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	1 for 50; 2 for 51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 per 500 on every floor	1 for 11 to 100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterward
A-5	Stadiums and other	1 for 100; 2	1 for 50; 2 for	1 for up to	1 for up to	1 per 500 on	1 for 11 to

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	structures for outdoor sporting events and activities	for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	every floor	100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterwards
B	Swimming pool bathhouses	1 per 75	1 per 50	1 per 50	1 per 50	1 per 200	1 per 75
	Park service buildings or bathhouses	See subsections (11) and (12) of this section					
	Office buildings ^c	1 for 1 to 15; 2 for 16 to 35; 3 for 36 to 55; 4 for 56 to 80; 5 for 81 to 110; 6 for 111 to 150; 1 for each additional 40 afterwards		1 for 1 to 15; 2 for 16 to 35; 3 for 36 to 60; 4 for 61 to 90; 5 for 91 to 125; 1 for each additional 75 afterwards		1 per 75	Optional
	Schools of higher-education and similar educational facilities	1 per 50	1 per 25	1 per 25	1 per 25	1 per 75	1 per 50
E	School buildings (not including higher-education facilities)	1 for up to 25; 2 for 26 to 100; 1 for each 100 afterwards	2 for up to 25; 3 for 26 to 50; 6 for 51 to 100; 8 for 101 to 200; 10 for 201 to 300; 12 for 301 to 400; 14 for 401 to 500; 1 additional for each 40 afterwards	1 per 25 up to 50; 1 per 50 afterwards	1 per 25 up to 50; 1 per 50 afterwards	See subsection (10) of this section	1 for 1 to 25; 2 for 26 to 50; 4 for 51 to 100; 6 for 101 to 200; 8 for 201 to 300; 10 for 301 to 400; 12 for 401 to 500; 1 for each additional 50 afterwards
M	Mercantile and retail food store	1 per 150 up to 450; 1 per additional 500	1 per 100 up to 400; 1 per each additional 300	1 for 1 to 200; 2 for 201 to 400; 3 for 401 to 700; 1 for each additional 500	1 for 1 to 200; 2 for 201 to 400; 3 for 401 to 700; 1 for each additional 500	1 per 500 on each floor	1 for 50 to 200; 2 for 201 to 400; 3 for 401 to 600; 1 for additional 300 afterwards
R-1	Transient lodging facilities (public service areas)	1 per 25	1 per 15	1 per 25	1 per 25	1 per 75 on each floor	1 for 11 to 100; 1 for each additional 50 afterwards
	Transient lodging facilities (without private bath)	1 per 10; 1 per additional 25 afterwards	1 per 8; 1 per additional 20 afterwards	1 per 10	1 per 10	1 per 75 on each floor	1 for 11 to 100; 1 for each additional 50 afterwards
R-2 ^c	Dormitories, fraternities, sororities, and rooming houses	1 per 10		1 per 10		1 per 75	Optional
R-3 ^c	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 75	Optional
R-4 ^c	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 75	Optional
I-1	Residential Care	1 per 10	1 per 10	1 per 10	1 per 10	1 per 100 on each floor	1 for each 50
I-2	Hospitals wards and nursing home wards	1 per 10	1 per 10	1 per 10	1 per 10	1 per 100 on each floor	1 for each 50
	Hospital individual rooms and nursing home individual rooms ^c	1 per room		1 per room		Optional	Optional
I-3	Institutions, penal (Cells) ^c	1 prison-type water closet per cell		1 prison-type lavatory per cell		Optional	Optional
	Institutions, penal (Day rooms and	1 per 12	1 per 8	1 per 12	1 per 12	1 per floor	Optional

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	dorms)						
I-4	Adult day care and child day care	1 per 10	1 per 10	1 per 10	1 per 10	1 per 100 on each floor	1 for each 50
F-1 and F-2	Workshops and factories	1 for 25 to 100; 1 for each additional 30 afterwards	1 for 15 to 100; 1 for each additional 30 afterwards	1 for 25 to 100; 1 for each additional 50 afterwards	1 for 25 to 100; 1 for each additional 50 afterwards	1 for 50 to 100 on each floor; 1 for each additional 75 afterwards	1 for 11 to 50; 2 for 51 to 100; 1 for each additional 100 afterward
S-2	Parking garages ^d	1	1	1	1	Optional	1

Notes: a. The ratio equals the number of fixtures per the number of male occupants or female occupants.

b. The ratio equals the number of fixtures per the total number of occupants.

c. Separate male and female water closets or male and female lavatories are not required in these occupancy types.

d. There are no minimum fixture requirements for Group S-1 or S-2 buildings except for the minimum fixture requirement for parking garages.

(2) Facilities for Stages.

(a) [(4)] A separate water closet and lavatory shall be provided for males and females in the stage area.

(b) [(2)] A drinking fountain shall be provided in the stage and auditorium area.

(3) Carry-out food service facilities. A carry-out food service operation shall be exempt from providing toilet facilities for the use of the carry-out food service facility's patrons.

(4) Licensed food establishments. In all food establishments licensed by the Cabinet for Health and Family Services, Department for Public Health, the requirements of this subsection shall be met.

(a) Handwashing sinks.

1. All handwashing sinks shall have a minimum hot water temperature of 100 degrees Fahrenheit and a maximum hot water temperature of 120 degrees Fahrenheit.

2. Self-closing faucets shall provide a flow of water for no less than fifteen (15) seconds from activation.

3. Placement of handwashing sinks shall be approved by the Cabinet for Health and Family Services, Department for Public Health pursuant to 902 KAR 45:005.

(b) A three (3) compartment sink used for washing utensils shall be required and shall drain by a direct connection with a minimum of a two (2) inch drain.

(c) Dishwashing or ware washing machines shall discharge indirectly through a three (3) inch open receptacle.

(d) Residential type dishwashing machines shall discharge:

1. Through an air gap device; or

2. Indirectly through a three (3) inch open receptacle.

(e) Sinks solely used for food preparation shall discharge by an indirect connection to a minimum three (3) inch trap.

(f) All hub drains, open receptacles, floor sinks, or other waste receptacles shall extend one (1) inch above the floor plane unless a full grate ~~or~~ strainer is installed flush with the floor.

(g) Mobile food units. Occupied mobile food units not located within an existing permitted food establishment shall:

1. Meet the requirements of this code.

2. Have a waste tank no less than fifty (50) percent larger than the freshwater tank;

3. Have a National Sanitary Foundation (NSF) approved freshwater tank for potable water; and

4. Have a minimum of a three (3) compartment sink and one (1) hand sink.

(5) A restaurant with an occupancy of one (1) to fifteen (15) persons shall:

(a) Comply with the requirements for Group A-2 buildings; or

(b) Provide at least one (1) unisex facility consisting of one (1) water closet and one (1) lavatory.

(6) Employee Facilities.

(a) 1. Sanitary facilities within each building shall be provided for employees, unless an exception is approved by the division.

2. Examples of exceptions include buildings of non-occupancy, such as storage buildings or guard houses. These buildings shall not be required to have sanitary facilities if no one is working in the buildings. For guard houses, if the guard's normal scope of work requires him or her to enter buildings that already have sanitary facilities, then the guard house is not required to also have these facilities.

(b) If more than five (5) persons are employed, separate facilities for each sex shall be provided.

(c) For a tenant space within a building of 3,000 square feet or less of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or accessible areas having a travel distance of not more than 500 feet within the building in which the tenant space is located.

(7) Residential private rooms. Residential facilities in Group R-1, Group R-2, Group R-3, and Group R-4 that have a private bath attached to a private room shall have one (1) water closet, one (1) lavatory, and one (1) bathtub or shower.

(8) Kitchen type sinks. An apartment unit or a condominium unit in Group R-2 or Group R-3 buildings shall have a kitchen type sink.

(9) Waiting rooms. Waiting rooms in Group I-2 buildings and Group I-3 buildings shall provide at least one (1) water closet and one (1) lavatory.

(10) School drinking fountains.

(a) Group E (not including higher education facilities) buildings shall have the following:

1. A minimum of two (2) water bottle filling stations in each school;

2. A minimum of one (1) drinking fountain or water bottle filling station on each floor and wing of each school building; and

3. A minimum of one (1) drinking fountain or water bottle filling station for every seventy-five (75) students projected to attend the school upon completion of the proposed construction.

(b) A drinking fountain shall be equipped with:

1. A protective cowl; and

2. The orifice, which shall be one (1) inch above the overflow rim of the fountain.

(11) Park Service Buildings or Bathhouses. A park service building or bathhouse shall comply with the requirements established in 902 KAR 15:020 and this subsection.

(a) Except for a self-contained recreational vehicle community, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures established in this section.

(b) Except for a self-contained recreational vehicle community, sanitary facilities shall be provided as follows:

1. If there are one (1) to fifteen (15) vehicle spaces, there shall be for:

a. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

b. Females: At least one (1) water closet, one (1) lavatory, and one (1) shower;

2. If there are sixteen (16) to thirty (30) vehicle spaces, there shall be for:

a. Males: At least one (1) water closet, one (1) urinal, two (2) lavatories, and two (2) showers; and

b. Females: At least two (2) water closets, two (2) lavatories, and two (2) showers;

3. If there are thirty-one (31) to forty-five (45) vehicle spaces, there shall be for:

a. Males: At least two (2) water closets, one (1) urinal, three (3) lavatories, and three (3) showers; and

b. Females: At least two (2) water closets, three (3) lavatories,

and three (3) showers:

4. If there are forty-six (46) to sixty (60) vehicle spaces, there shall be for:

a. Males: At least two (2) water closets, two (2) urinals, three (3) lavatories, and three (3) showers; and

b. Females: At least three (3) water closets, three (3) lavatories, and three (3) showers;

5. If there are sixty-one (61) to eighty (80) vehicle spaces, there shall be for:

a. Males: At least three (3) water closets, two (2) urinals, four (4) lavatories, and four (4) showers; and

b. Females: At least four (4) water closets, four (4) lavatories, and four (4) showers;

6. If there are eighty-one (81) to 100 vehicle spaces, there shall be for:

a. Males: At least four (4) water closets, two (2) urinals, five (5) lavatories, and five (5) showers; and

b. Females: At least five (5) water closets, five (5) lavatories, and five (5) showers; and

7. If over 100 vehicle spaces are provided, there shall be provided at least:

a. One (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof;

b. One (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and

c. One (1) additional urinal for males per additional 100 vehicle spaces or fraction thereof.

(12) Residential and Day Camp Sites. A residential or day camp site shall comply with the requirements established in 902 KAR 10:040 and this subsection.

(a)1. Each residential camp site shall be provided with sanitary facilities for each sex as established in this subsection.

2. A day camp shall:

a. Not be required to provide shower facilities; and

b. Provide all other sanitary facilities for each sex as established in this section.

(b) Sanitary facilities shall be provided as follows:

1. If there are one (1) to eighteen (18) persons served, there shall be for:

a. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

b. Females: At least two (2) water closets, one (1) lavatory, and one (1) shower;

2. If there are nineteen (19) to thirty-three (33) persons served, there shall be for:

a. Males: At least two (2) water closets, one (1) urinal, two (2) lavatories, and two (2) showers; and

b. Females: At least two (2) water closets, two (2) lavatories, and two (2) showers;

3. If there are thirty-four (34) to forty-eight (48) persons served, there shall be for:

a. Males: At least two (2) water closets, two (2) urinals, two (2) lavatories, and three (3) showers; and

b. Females: At least three (3) water closets, two (2) lavatories, and three (3) showers;

4. If there are forty-nine (49) to sixty-three (63) persons served, there shall be for:

a. Males: At least three (3) water closets, two (2) urinals, three (3) lavatories, and four (4) showers; and

b. Females: At least four (4) water closets, three (3) lavatories, and four (4) showers;

5. If there are sixty-four (64) to seventy-nine (79) persons served, there shall be for:

a. Males: At least three (3) water closets, three (3) urinals, three (3) lavatories, and five (5) showers; and

b. Females: At least five (5) water closets, three (3) lavatories, and five (5) showers;

6. If there are eighty (80) to ninety-five (95) persons served, there shall be for:

a. Males: At least four (4) water closets, three (3) urinals, four (4) lavatories, and six (6) showers; and

b. Females: At least six (6) water closets, four (4) lavatories,

and six (6) showers; and

7. If over ninety-five (95) persons are served, there shall be provided at least:

a. One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served;

b. One (1) additional shower for each twenty (20) persons or fraction thereof served; and

c. One (1) additional urinal for each additional fifty (50) males or fraction thereof.

(c) Coed day camps with equal number of males and females shall meet the fixture requirements of Group E school buildings (not including higher-education facilities) in the chart in subsection (1) of this section.

(d) Water closets may be substituted for urinals if facilities are to be used by both sexes.

Section 4.5.7 Fixture Alternatives.

(1) Lavatory alternatives.

(a) If a gang sink is installed, twenty four (24) inches of the gang sink shall equal one (1) lavatory.

(b) If a circular sink is installed, eighteen (18) inches of the circular sink basin shall equal one (1) lavatory.

(2) Urinal alternative. If a trough urinal is installed, twenty four (24) inches of the trough urinal shall equal one (1) urinal.

Section 5.6.7 Other Fixture Requirements.

(1) Modular Classrooms. If detached modular classrooms are used, sanitary facilities shall not be required, if:

(a) The entrance of the modular classroom for elementary grades through the fifth grade is within a developed travel distance not to exceed 100 feet from the accessible entrance to the main structure or an approved central modular restroom;

(b) The entrance of the modular classroom for sixth grade and above is within a developed travel distance not to exceed 200 feet, from the accessible entrance to the main structure or an approved central modular restroom;

(c) The travel path meets the accessibility requirements established in the Kentucky Building Code, 815 KAR 7:120; and

(d) There are sufficient fixtures in the main structure to serve the entire capacity of the school, including the modular classrooms.

(2) Laundry trays or clothes washers. Dormitories in Group R-2 shall have one (1) laundry tray or clothes washer for each fifty (50) persons or fraction thereof.

(3) Shower and bath requirements. Bathing fixtures requirements are as follows:

(a) Transient lodging facilities with private baths shall have one (1) bathtub or shower per room.

(b) Dormitories, fraternities, sororities, and rooming houses in Group R-2 shall have:

1. One (1) bathtub or shower for each eight (8) persons or fraction thereof up to 150 persons; and

2. If there are over 150 persons, one (1) additional bathtub or shower for each twenty (20) persons.

(c) Swimming pool bathhouses shall have one (1) shower per each fifty (50) persons or fraction thereof;

1. Showers shall be supplied with water at a temperature of not less than ninety (90) degrees Fahrenheit and at a flow rate of at least three (3) gallons per minute.

2. Thermostatic, tempering, or mixing valves shall be installed to prevent scalding of the bathers.

3. The requirement relating to bathhouse toilet room and shower facilities may be waived if the facilities are available to pool patrons within 150 feet from the pool.

(d) Groups F-1 and F-2 buildings shall provide one (1) shower for each fifteen (15) ~~persons~~^{person} or fraction thereof, exposed to skin contamination from irritating, infectious, or poisonous materials.

(e) Group I-2 buildings shall have at least one (1) bathtub or shower for each fifteen (15) persons or fraction thereof. [

Section 5. Theaters, Assembly Halls, and Similar Occupancies. Separate toilet rooms for males and females shall be provided as

established in this section and in Sections 2 through 4 of this administrative regulation. (1) Water closets and urinals for males:

(a) Water closets for males shall be installed with at least:

1. One (1) water closet for each 100 males;
2. Two (2) water closets for 101 to 200 males;
3. Three (3) water closets for 201 to 400 males; and
4. If over 400 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof.

(b) Urinals for males shall be installed with at least:

1. One (1) urinal for eleven (11) to 100 males;
2. Two (2) urinals for 101 to 300 males;
3. Three (3) urinals for 301 to 600 males; and
4. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.

(2) Water closets for females. Water closets for females shall be installed with at least: (a) One (1) water closet for each fifty (50) females;

(b) Two (2) water closets for fifty-one (51) to 100 females;

(c) Three (3) water closets for 101 to 150 females;

(d) Four (4) water closets for 151 to 200 females; and

(e) If over 200 females, four (4) water closets plus one (1) additional water closet for each additional 150 females or fraction thereof.

(3) Lavatories for Males or Females. Lavatories shall be installed with at least:

(a) One (1) lavatory for up to 100 persons;

(b) Two (2) lavatories for 101 to 200 persons;

(c) Three (3) lavatories for 201 to 400 persons;

(d) Four (4) lavatories for 401 to 750 persons; and

(e) If over 750 persons, four (4) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof.

(4) Sinks. There shall be at least one (1) service sink or slop sink on each floor.

(5) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.

(6) Drinking fountain. At least one (1) drinking fountain shall be provided on each floor for each 500 persons or fraction thereof.

(7) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat. Section 6. Libraries, Museums, and Art Galleries. Separate toilet facilities for males and females shall be provided as established in this section and in Sections 2 through 4 of this administrative regulation:

(1) There shall be at least one (1) water closet and one (1) lavatory for each 100 females or fraction thereof.

(2) Except as established in subsection (7) of this section, there shall be at least one (1) water closet and one (1) lavatory for each 200 males or fraction thereof.

(3) There shall be at least:

(a) One (1) urinal for eleven (11) to 200 males;

(b) Two (2) urinals for 201 to 400 males;

(c) Three (3) urinals for 401 to 600 males; and

(d) If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.

(4) There shall be at least one (1) service sink or slop sink on each floor.

(5) At least one (1) drinking fountain shall be provided for each 500 persons or fraction thereof.

(6) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity of fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person for each fifteen (15) square feet of area.

(7) Urinals may be substituted for water closets for males if:

(a) The substituted urinals do not exceed one-third (1/3) of the required total number of water closets; and

(b) The minimum number of urinals is installed.

(8) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 7. School Buildings Not Including Higher Education

Facilities. A school building shall be in compliance with the requirements established in 702 KAR 4:170 and this section.

(1) Drinking fountains.

(a) At least one (1) drinking fountain shall be provided on each floor and wing of a building.

(b) At least one (1) additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof.

(c) The drinking fountains shall be equipped with:

1. A protective cowl; and

2. The orifice, which shall be one (1) inch above the overflow rim of the fountain.

(2) Elementary through secondary level school buildings shall be provided with the following:

(a) Water closets for males shall be installed with at least:

1. One (1) water closet for up to twenty-five (25) pupils;

2. Two (2) water closets for twenty-six (26) to 100 pupils; and

3. If over 100 pupils, two (2) water closets plus one (1) additional water closet for each additional 100 pupils or fraction thereof;

(b) Urinals for males shall be installed with at least:

1. One (1) urinal for up to twenty-five (25) pupils;

2. Two (2) urinals for twenty-six (26) to fifty (50) pupils;

3. Four (4) urinals for fifty-one (51) to 100 pupils;

4. Six (6) urinals for 101 to 200 pupils;

5. Eight (8) urinals for 201 to 300 pupils;

6. Ten (10) urinals for 301 to 400 pupils;

7. Twelve (12) urinals for 401 to 500 pupils; and

8. If over 500 pupils, twelve (12) urinals plus one (1) additional urinal for each additional fifty (50) pupils or fraction thereof in excess of 500;

(c) Water closets for females shall be installed with at least:

1. Two (2) water closets for up to twenty-five (25) pupils;

2. Three (3) water closets for twenty-six (26) to fifty (50) pupils;

3. Six (6) water closets for fifty-one (51) to 100 pupils;

4. Eight (8) water closets for 101 to 200 pupils;

5. Ten (10) water closets for 201 to 300 pupils;

6. Twelve (12) water closets for 301 to 400 pupils;

7. Fourteen (14) water closets for 401 to 500 pupils; and

8. If over 500 pupils, fourteen (14) water closets plus one (1) additional water closet for each additional forty (40) pupils or fraction thereof; and

(d) 1. Lavatories for male and female pupils shall be installed with at least:

a. One (1) lavatory for each twenty-five (25) pupils or fraction thereof; and

b. If over fifty (50) pupils, two (2) lavatories plus one (1) additional lavatory for each additional fifty (50) pupils or fraction thereof; and

2. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin, if provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

(3) At least one (1) service sink or slop sink shall be installed on each floor of a building.

(4) If detached modular classrooms are used, sanitary facilities shall not be required, if:

(a) The entrance of the modular classroom for elementary grades through the fifth grade is within a developed travel distance not to exceed 100 feet from the accessible entrance to the main structure or an approved central modular restroom;

(b) The entrance of the modular classroom for sixth grade and above is within a developed travel distance not to exceed 200 feet, from the accessible entrance to the main structure or an approved central modular restroom;

(c) The travel path meets the accessibility requirements established in the Kentucky Building Code, 815 KAR 7:120; and

(d) There are sufficient fixtures in the main structure to serve the entire capacity of the school, including the modular classrooms.

(5) Water closets in a school building shall be of the elongated bowl type with a split open front seat.

Section 8. Schools of Higher Education and Similar Educational Facilities. (1)(a) Except as established in paragraph

(b) of this subsection, in a school of higher education or a

similar education facility, there shall be installed at least:

1. One (1) water closet for each fifty (50) males and one (1) water closet for each twenty-five (25) females or fraction thereof;
2. One (1) lavatory for each fifty (50) persons or fraction thereof;
3. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof; and
4. One (1) urinal for each fifty (50) males or fraction thereof.

(b) One (1) water closet less than the number specified in paragraph (a) of this subsection may be provided for each urinal installed except that the number of water closets in those cases shall not be reduced to less than two-thirds (2/3) of the minimum specified.

(2) Water closets in a school of higher education or a similar education facility shall be of the elongated bowl type with a split open front seat.

Section 9. Public Garages and Service Stations. (1) Separate toilet rooms for males and females shall be provided with at least:

- (a) A water closet and lavatory for females; and
- (b) A water closet, lavatory, and urinal for males.

(2) Water closets shall be of the elongated bowl type with a split open front seat.

Section 10. Churches. (1) Sanitary facilities shall be provided in a church with at least: (a) One (1) drinking fountain for each 400 persons or fraction thereof;

- (b) One (1) water closet for each 150 females or fraction thereof;
- (c) One (1) water closet for each 300 males or fraction thereof;
- (d) One (1) urinal for fifty (50) to 150 males or fraction thereof;
- (e) One (1) additional urinal for each additional 150 males or fraction thereof; and
- (f) One (1) lavatory for each 150 persons or fraction thereof.

(2) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 11. Transient Lodging Facilities. A transient lodging facility shall be in compliance with the requirements established in 902 KAR 10:010 and this section. (1) A hotel or motel with private rooms shall have at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

(2) In the public and service areas, there shall be at least:

- (a) One (1) water closet for each twenty-five (25) males or fraction thereof;
- (b) One (1) water closet for each fifteen (15) females or fraction thereof;
- (c) One (1) lavatory for each twenty-five (25) persons or fraction thereof;
- (d) One (1) urinal for eleven (11) to 100 males plus one (1) additional urinal for each additional fifty (50) males or fraction thereof;
- (e) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof on each floor; and
- (f) One (1) service sink or slop sink on each floor.

(3) In residential-type buildings, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

(4) In rooming houses with private baths, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

(5) In rooming houses without private baths, there shall be at least: (a) One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty-five (25) males or fraction thereof;

- (b) One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) females or fraction thereof;
- (c) One (1) urinal for eleven (11) to 100 males and one (1) for each additional fifty (50) males or fraction thereof;
- (d) One (1) lavatory for each ten (10) persons or fraction thereof; and
- (e) One (1) bathtub or shower for each ten (10) persons or fraction thereof.

Section 12. Dormitories: School, Labor, or Institutional. (1) Water closets. There shall be at least:

(a) One (1) water closet for up to ten (10) males plus one (1) additional water closet for each additional twenty-five (25) males or fraction thereof; and

(b) One (1) water closet for up to eight (8) females plus one (1) additional water closet for each additional twenty (20) females or fraction thereof.

(2) Urinals. (a) There shall be at least:

1. One (1) urinal for each twenty-five (25) males or fraction thereof up to 150 males; and

2. If there are over 150 males, one (1) additional urinal for each additional fifty (50) males or fraction thereof.

(b) If urinals are provided, a urinal may be substituted for a water closet, not to exceed one third (1/3) of the required total number of water closets.

(c) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3) Lavatories. There shall be at least one (1) lavatory for one (1) to twelve (12) persons, with an additional one (1) lavatory for each additional twenty (20) males and fifteen (15) females or fraction thereof.

(4) Additional fixtures. There shall be at least:

(a) 1. One (1) bathtub or shower for each eight (8) persons or fraction thereof, up to 150 persons; and

2. If there are over 150 persons, one (1) additional bathtub or shower for each twenty (20) persons;

(b) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof;

(c) One (1) laundry tray or clothes washer for each fifty (50) persons or fraction thereof; and

(d) One (1) service sink or slop sink for each 100 persons or fraction thereof.

(5) If the dormitory is located in a youth camp, the requirements of 902 KAR 10:040 shall apply in addition to the requirements established in this section.

Section 13. Hospitals, Nursing Homes, and Institutions. A hospital, nursing home, or institution shall comply with the requirements established in 902 KAR 20:031, 902 KAR 20:046, 902 KAR 20:056, and 902 KAR 9:010. Sanitary facilities shall be provided on each floor level and shall conform to this section.

(1) Hospitals. (a) Wards. There shall be at least:

1. One (1) water closet for each ten (10) patients or fraction thereof;

2. One (1) lavatory for each ten (10) patients or fraction thereof;

3. One (1) tub or shower for each fifteen (15) patients or fraction thereof; and

4. One (1) drinking fountain for each 100 patients or fraction thereof.

(b) Individual rooms. There shall be at least one (1) water closet, one (1) lavatory, and one (1) tub or shower.

(c) Waiting rooms. There shall be at least one (1) water closet and one (1) lavatory.

(2) Nursing homes and institutions (other than penal). There shall be at least:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof;

(b) One (1) water closet for each twenty (20) females or fraction thereof;

(c) One (1) lavatory for each ten (10) persons or fraction thereof;

(d) One (1) urinal for each fifty (50) males or fraction thereof;

(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof;

(f) One (1) drinking fountain on each floor; and

(g) One (1) service sink or slop sink on each floor.

(3) Institutions, penal. (a) Cell. There shall be at least:

1. One (1) prison-type water closet; and

2. One (1) prison-type lavatory.

(b) Day rooms and dormitories. 1. There shall be at least:

a. One (1) water closet for each eight (8) female inmates or

fraction thereof and one (1) water closet for each twelve (12) male inmates or fraction thereof;

b. One (1) lavatory for each twelve (12) inmates or fraction thereof;

c. One (1) shower for each fifteen (15) inmates or fraction thereof;

d. One (1) drinking fountain per floor; and

e. One (1) service sink or slop sink per floor.

2. For males, one (1) urinal may be substituted for each water closet if the number of water closets is not reduced to less than one-half (1/2) the number required.

(c) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.

(d) There shall be at least one (1) drinking fountain on each floor.

(e) There shall be at least one (1) service sink or slop sink per floor.

Section 14. Workshops, Factories, Mercantile, and Office Buildings. Separate toilet facilities shall be provided for males and females on each floor unless otherwise denoted.

(1) Workshops and factories: Sanitary facilities shall conform to the following:

(a) There shall be at least:

1. One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100;

2. One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100;

3. One (1) urinal for eleven (11) to fifty (50) employees;

4. Two (2) urinals for fifty-one (51) to 100 employees;

5. One (1) lavatory for each twenty-five (25) females or fraction thereof up to 100; and

6. One (1) water closet for each fifteen (15) females or fraction thereof up to 100;

(b) If in excess of 100 persons, there shall be at least:

1. One (1) additional water closet for each additional thirty (30) males and each additional thirty (30) females or fraction thereof;

2. One (1) additional lavatory for each additional fifty (50) males and females or fraction thereof; and

3. One (1) additional urinal for each additional 100 males or fraction thereof;

(c) There shall be at least:

1. One (1) shower for each fifteen (15) persons or fraction thereof, exposed to skin contamination from irritating, infectious, or poisonous materials;

2.a. One (1) drinking fountain on each floor for each fifty (50) employees or fraction thereof, up to 100 employees; and

b. If there are more than 100 employees, there shall be an additional drinking fountain on each floor for each additional seventy-five (75) employees or fraction thereof; and

3. One (1) service sink or slop sink per floor; and

(d) 1. Individual sinks or wash troughs may be used in lieu of lavatories.

2. Twenty-four (24) inches of sink or trough, if provided with water, or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.

(2) Mercantile. (a) Employees. 1. Except as provided in subparagraph 2 of this paragraph, sanitary facilities within each store shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For a store containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or accessible areas having a travel distance of not more than 500 feet within the building in which the store is located.

(b) Customers.

1. Sanitary facilities shall be provided for customers if the building contains 5,000 square feet or more.

2. In a mall or shopping center, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed in individual stores or in a central toilet room area or areas, if:

a. The distance from the main entrance of a store does not

exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Sanitary facilities shall be provided as stated in this section and there shall be at least:

1. One (1) water closet for one (1) to 150 males;

2. Two (2) water closets for 151 to 300 males;

3. Three (3) water closets for 301 to 450 males;

4. If over 500 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof;

5. One (1) urinal for fifty (50) to 200 males;

6. Two (2) urinals for 201 to 400 males;

7. Three (3) urinals for 401 to 600 males;

8. If over 300 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;

9. One (1) water closet for one (1) to 100 females;

10. Two (2) water closets for 101 to 200 females;

11. Three (3) water closets for 201 to 400 females;

12. If over 400 females, three (3) water closets plus one (1) additional water closet for each additional 300 females or fraction thereof;

13. One (1) lavatory for one (1) to 200 persons;

14. Two (2) lavatories for 201 to 400 persons;

15. Three (3) lavatories for 401 to 700 persons;

16. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof; Three (3) lavatories plus one (1) lavatory for each 500 persons, or fraction thereof, in excess of 700;

17. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and

18. One (1) service sink or slop sink per floor.

(3) Office buildings. (a) Employees. 1. Except as established in subparagraph 2 of this paragraph, sanitary facilities within office buildings shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For an office building or space containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of not more than 500 feet within the same building.

(b) Customers. 1. Sanitary facilities shall be provided for customers if the office building or space contains 5,000 square feet or more.

2. In an office building, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed within the individual offices, or in a central toilet room area or areas if:

a. The distance from the main entrance of an office space does not exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Separate sanitary facilities for each gender shall be provided as stated in this section. 1. For males and females there shall be at least:

a. One (1) water closet for one (1) to fifteen (15) persons;

b. Two (2) water closets for sixteen (16) to thirty-five (35) persons;

c. Three (3) water closets for thirty-six (36) to fifty-five (55) persons;

d. Four (4) water closets for fifty-six (56) to eighty (80) persons;

e. Five (5) water closets for eighty-one (81) to 110 persons;

f. Six (6) water closets for 111 to 150 persons;

g. If over 150 persons, six (6) water closets plus one (1) additional water closet for each additional forty (40) persons or fraction thereof;

h. One (1) lavatory for one (1) to fifteen (15) persons;

i. Two (2) lavatories for sixteen (16) to thirty-five (35) persons;

j. Three (3) lavatories for thirty-six (36) to sixty (60) persons;

k. Four (4) lavatories for sixty-one (61) to ninety (90) persons;

l. Five (5) lavatories for ninety-one (91) to 125 persons;

m. If over 125 persons, five (5) lavatories plus one (1) additional lavatory for each additional seventy-five (75) persons or

fraction thereof; and

n. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

2. For males, if urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed if the number of water closets is not reduced to less than seventy (70) percent of the minimum specified.

~~Section 15. Swimming Pool Bathhouses. A swimming pool bathhouse shall comply with the requirements established in 902 KAR 10:120 and this section.~~

~~(1) Bathhouses for public swimming pools shall be divided into two (2) parts separated by a tight partition, with one (1) part designated for "Males" or "Men" and the other part designated for "Females" or "Women."~~

~~(2) Sanitary facilities shall be provided in each bathhouse to serve the anticipated bather load, as defined in 902 KAR 10:120, and shall conform to the following:~~

~~(a) For swimming pools in which the total bather capacity is 200 persons or less, there shall be at least:~~

~~1. One (1) water closet for each seventy-five (75) males or fraction thereof;~~

~~2. One (1) water closet for each fifty (50) females or fraction thereof;~~

~~3. One (1) urinal for each seventy-five (75) males or fraction thereof;~~

~~4. One (1) lavatory for each 100 persons or fraction thereof;~~

~~5. One (1) shower per each fifty (50) persons or fraction thereof; and~~

~~6. One (1) drinking fountain per each 200 persons or fraction thereof;~~

~~(b) For swimming pools in which the total bather capacity exceeds 200 persons, there shall be at least:~~

~~1. Five (5) water closets for 201 to 400 females, with one (1) additional water closet for each additional 250 females or fraction thereof;~~

~~2. Three (3) water closets for 201 to 400 males, with one (1) additional water closet for each additional 500 males or fraction thereof;~~

~~3. Three (3) urinals for 201 to 400 males, with one (1) additional urinal for each additional 500 males or fraction thereof;~~

~~4. One (1) lavatory for up to 150 persons;~~

~~5. Two (2) lavatories for 151 to 400 persons;~~

~~6. Three (3) lavatories for 401 to 750 persons;~~

~~7. If over 750 persons, three (3) lavatories plus one (1) additional lavatory for each additional 750 persons or fraction thereof;~~

~~8. One (1) shower per each fifty (50) persons or fraction thereof up to 150;~~

~~9. If over 150 persons, three (3) showers plus one (1) additional shower for each additional 500 persons or fraction thereof; and~~

~~10. One (1) drinking fountain per each 500 persons or fraction thereof.~~

~~(3) Fixture schedules shall be increased for pools at schools or similar locations where bather loads may reach peaks due to schedules of use. Pools used by groups or classes on regular time schedules of:~~

~~(a) One (1) hour or less shall have at least one (1) shower for each six (6) swimmers; and~~

~~(b) One (1) to two (2) hours shall have at least one (1) shower for each ten (10) swimmers.~~

~~(4) Shower facilities, including warm water and soap, shall be provided for each sex.~~

~~(a) Showers shall be supplied with water at a temperature of not less than ninety (90) degrees Fahrenheit and at a flow rate of at least three (3) gallons per minute.~~

~~(b) Thermostatic, tempering, or mixing valves shall be installed to prevent scalding of the bathers.~~

~~(5) The requirement relating to bathhouse toilet room and shower facilities may be waived if the facilities are available to pool patrons within 150 feet from the pool.~~

~~Section 16. Park Service Buildings or Bathhouses. A park service building or bathhouse shall comply with the requirements established in 902 KAR 15:020, Section 8, and this section.~~

~~(1) Except for a self-contained recreational vehicle community, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures established in this section.~~

~~(2) Except for a self-contained recreational vehicle community, sanitary facilities shall be provided as follows:~~

~~(a) If there are one (1) to fifteen (15) vehicle spaces, there shall be for:~~

~~1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and~~

~~2. Females: At least one (1) water closet, one (1) lavatory, and one (1) shower;~~

~~(b) If there are sixteen (16) to thirty (30) vehicle spaces, there shall be for:~~

~~1. Males: At least one (1) water closet, one (1) urinal, two (2) lavatories, and two (2) showers; and~~

~~2. Females: At least two (2) water closets, two (2) lavatories, and two (2) showers;~~

~~(c) If there are thirty-one (31) to forty-five (45) vehicle spaces, there shall be for:~~

~~1. Males: At least two (2) water closets, one (1) urinal, three (3) lavatories, and three (3) showers; and~~

~~2. Females: At least two (2) water closets, three (3) lavatories, and three (3) showers;~~

~~(d) If there are forty-six (46) to sixty (60) vehicle spaces, there shall be for:~~

~~1. Males: At least two (2) water closets, two (2) urinals, three (3) lavatories, and three (3) showers; and~~

~~2. Females: At least three (3) water closets, three (3) lavatories, and three (3) showers;~~

~~(e) If there are sixty-one (61) to eighty (80) vehicle spaces, there shall be for:~~

~~1. Males: At least three (3) water closets, two (2) urinals, four (4) lavatories, and four (4) showers; and~~

~~2. Females: At least four (4) water closets, four (4) lavatories, and four (4) showers;~~

~~(f) If there are eighty-one (81) to 100 vehicle spaces, there shall be for:~~

~~1. Males: At least four (4) water closets, two (2) urinals, five (5) lavatories, and five (5) showers; and~~

~~2. Females: At least five (5) water closets, five (5) lavatories, and five (5) showers; and~~

~~(g) If over 100 vehicle spaces are provided, there shall be provided at least:~~

~~1. One (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof;~~

~~2. One (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and~~

~~3. One (1) additional urinal for males per additional 100 vehicle spaces or fraction thereof.~~

~~Section 17. Residential and Day Camp Sites. A residential or day camp site shall comply with the requirements established in 902 KAR 10:040 and this section.~~

~~(1)(a) Each residential camp site shall be provided with sanitary facilities for each sex as established in this section.~~

~~(b) A day camp shall:~~

~~1. Not be required to provide shower facilities; and~~

~~2. Provide all other sanitary facilities for each sex as established in this section.~~

~~(2) Sanitary facilities shall be provided as follows:~~

~~(a) If there are one (1) to eighteen (18) persons served, there shall be for:~~

~~1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and~~

~~2. Females: At least two (2) water closets, one (1) lavatory, and one (1) shower;~~

~~(b) If there are nineteen (19) to thirty-three (33) persons served, there shall be for:~~

1. Males: At least two (2) water closets, one (1) urinal, two (2) lavatories, and two (2) showers; and

2. Females: At least two (2) water closets, two lavatories, and two showers;

(c) If there are thirty-four (34) to forty-eight (48) persons served, there shall be for:

1. Males: At least two (2) water closets, two (2) urinals, two (2) lavatories, and three (3) showers; and

2. Females: At least three (3) water closets, two (2) lavatories, and three (3) showers;

(d) If there are forty-nine (49) to sixty-three (63) persons served, there shall be for:

1. Males: At least three (3) water closets, two (2) urinals, three (3) lavatories, and four (4) showers; and

2. Females: At least four (4) water closets, three (3) lavatories, and four (4) showers;

(e) If there are sixty-four (64) to seventy-nine (79) persons served, there shall be for:

1. Males: At least three (3) water closets, three (3) urinals, three (3) lavatories, and five (5) showers; and

2. Females: At least five (5) water closets, three (3) lavatories, and five (5) showers;

(f) If there are eighty (80) to ninety-five (95) persons served, there shall be for:

1. Males: At least four (4) water closets, three (3) urinals, four (4) lavatories, and six (6) showers; and

2. Females: At least six (6) water closets, four (4) lavatories, and six (6) showers; and

(g) If over ninety-five (95) persons are served, there shall be provided at least:

1. One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served;

2. One (1) additional shower for each twenty (20) persons or fraction thereof served; and

3. One (1) additional urinal per fifty (50) additional males or fraction thereof.

(3) Coed day camps with equal number of males and females shall meet the fixture requirements of Section 6(2) of this administrative regulation, relating to elementary through secondary level school buildings.

(4) Water closets may be substituted for urinals if facilities are to be used by both sexes.

Section 18. Retail Food Stores and Restaurants. Sanitary facilities shall be provided for employees. A retail food store or restaurant shall comply with the requirements established in 902 KAR 10:020, 902 KAR 45:005, and this section.

(1) Food stores. (a) If more than five (5) persons of different sex are employed, separate sanitary facilities shall be provided for the employees.

(b) 1. Separate sanitary facilities for each sex shall be provided for customers if the building contains 5,000 square feet or more:

2. In a mall or shopping center, the required facilities shall be:

a. Based on one (1) person per fifty (50) square feet; and

b. Installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of a store does not exceed 500 feet.

(c) There shall be at least:

1. One (1) water closet for one (1) to 100 persons;

2. Two (2) water closets for 101 to 200 persons;

3. Three (3) water closets for 201 to 400 persons;

4. If over 400 persons, three (3) water closets plus one (1) additional water closet for each additional 500 males or 300 females or fraction thereof;

5. One (1) urinal for eleven (11) to 200 males;

6. Two (2) urinals for 201 to 400 males;

7. Three (3) urinals for 401 to 600 males;

8. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;

9. One (1) lavatory for one (1) to 200 persons;

10. Two (2) lavatories for 201 to 400 persons;

11. Three (3) lavatories for 401 to 700 persons;

12. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof;

13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and

14. One (1) service sink, utility sink, or curbed mop basin per floor as required by the Cabinet for Health and Family Services.

(2) Restaurants. (a) If more than five (5) persons of different sex are employed, separate sanitary facilities for each sex shall be provided for the employees.

(b) 1. Except as provided in subparagraph 3 of this paragraph, in a new establishment or an establishment that is extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees.

2. Carryout-type food service operations shall be exempt from providing toilet facilities for the use of their patrons.

3. A restaurant with a business occupancy of one (1) to fifteen (15) persons shall:

a. Comply with the requirements in paragraphs (c) and (e) of this subsection; or

b. Provide at least one (1) unisex facility consisting of one (1) water closet and one (1) lavatory.

(c) There shall be at least:

1. Two (2) water closets for one (1) to 100 persons;

2. Three (3) water closets for 101 to 200 persons;

3. Four (4) water closets for 201 to 300 persons; and

4. If over 300 persons, four (4) water closets plus one (1) additional water closet for each additional 200 persons or fraction thereof.

(d) There shall be at least:

1. One (1) urinal for fifty (50) to 200 males; and

2. If over 200 males, one (1) urinal plus one (1) additional urinal for each additional 150 males or fraction thereof.

(e) There shall be at least:

1. One (1) lavatory for one (1) to 200 persons;

2. Two (2) lavatories for 201 to 400 persons;

3. Three (3) lavatories for 401 to 600 persons; and

4. If over 600 persons, three (3) lavatories plus one (1) additional lavatory for each additional 200 persons or fraction thereof.

(f) There shall be at least:

1. One (1) drinking fountain for one (1) to 100 persons; and

2. If over 100 persons, two (2) drinking fountains plus one (1) additional water fountain for each additional 400 persons or fraction thereof.

(g) If food is consumed indoors on the premises, water stations may be substituted for drinking fountains.

(h) There shall be one (1) service sink, utility sink, or curbed mop basin on each floor as required by the Cabinet for Health and Family Services.

(i) Lavatories for hand washing shall be provided in the kitchen area, readily accessible to the employees.

(3) Licensed food establishments. In all food establishments licensed by the Cabinet for Health and Family Services, Department for Public Health, the requirements in this subsection shall be met.

(a) Hand-washing sinks. 1. All hand-washing sinks shall have a minimum hot water temperature of 100 degrees Fahrenheit and a maximum of 120 degrees Fahrenheit.

2. Self-closing faucets shall provide a flow of water for no less than fifteen (15) seconds from activation.

3. Placement of hand-washing sinks shall be approved by the Cabinet for Health and Family Services, Department for Public Health pursuant to 902 KAR 45:005.

(b) A three (3) compartment sink used for washing utensils shall be required and shall drain by a direct connection with a minimum of a two (2)-inch drain.

(c) Dishwashing or ware washing machines shall discharge indirectly through a three (3)-inch open receptacle.

(d) Residential type dishwashing machines shall discharge:

1. Through an air gap device; or

2. Indirectly through a three (3)-inch open receptacle.

(e) Sinks solely used for food preparation shall discharge by an indirect connection to a minimum three (3) inch trap.

(f) All hub drains, open receptacles, floor sinks, or other waste receptacles shall extend one (1) inch above the floor plane unless a full grate/strainer is installed flush with the floor.

(g) Occupied mobile food units not located within an existing permitted food establishment shall:

1. Meet the requirements of the Kentucky Plumbing Code, KRS Chapter 318 and 815 KAR Chapter 20;
2. Have a waste tank no less than fifty (50) percent larger than the freshwater tank;
3. Have a National Sanitary Foundation (NSF) approved freshwater tank for potable water; and
4. Have a minimum of a three (3) compartment sink and one (1) hand sink.]

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CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Epidemiology and Health Planning
(As Amended at ARRS, May 12, 2020)

902 KAR 2:065. Immunization requirements for long-term care facilities.

RELATES TO: KRS 209.550, 209.552, [209.554.] 211.090, 211.180, 214.010, 216.510, 216.515, 216.530, 42 C.F.R. 483.80

STATUTORY AUTHORITY: KRS 209.554(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 209.554(1) requires the Cabinet for Health and Family Services, Department for Public Health to promulgate administrative regulations to implement provisions of KRS 209.550 to KRS 209.554 relating to immunization of residents and employees[staff] of long-term care facilities against influenza and pneumococcal disease. This administrative regulation establishes requirements for long-term care facilities to request that residents and employees agree to be vaccinated against influenza and pneumococcal disease, to provide vaccine for the residents and employees or to make a referral for vaccination, [to request that residents and employees agree to be vaccinated against influenza and pneumococcal disease,] to maintain annual documentation of immunizations, and to report outbreaks of influenza-like illnesses[illness].

Section 1. Definitions. (1) "Advisory Committee on Immunization Practices" or "ACIP" means the United States Department of Health and Human Services (HHS) [Public Health Service] Committee that makes national immunization recommendations to the Secretary of HHS, the Assistant Secretary for Health, and the Director of the Centers for Disease Control and Prevention (CDC).

(2) "Department" is defined by KRS 209.550(2).

(3) "Employee" is defined by KRS 209.550(4).

(4) ["Annual schedule" means the schedule for administering a once-a-year vaccination against influenza, established by ACIP to ensure that in the event of a shortage or delay in production of vaccine, persons at greatest risk are served first.

(3) "If vaccine is available" means that a sufficient supply of vaccine has been produced by vaccine manufacturers and is available for purchase and shipment.

(5)[(4)] "Influenza" means an acute viral infection of the respiratory tract:

- (a) Caused by an influenza virus[:];
- (b) Confirmed by:
 1. Viral[laboratory] culture;
 2. Polymerase chain reaction (PCR);
 3. Nucleic acid detection testing; or
 4. Rapid influenza diagnostic testing (RIDT); and

(c) Characterized by the sudden onset of a group of signs and symptoms such as fever, headache, myalgia, coryza, sore throat, and a dry cough.

(6)[(5)] "Influenza-like illness" or "ILI" means, in the absence of a known cause, other than influenza, an illness in which a person experiences:

(a) Fever greater than or equal to 100 degrees Fahrenheit or thirty seven and eight-tenths (37.8) degrees Celsius, as confirmed through oral or equivalent methods; [and][:]

(b) Cough; [or]

(c) Sore throat; or

(d) Cough and sore throat.

(7)[(6)] "Influenza vaccine" means a vaccine licensed by the Food and Drug Administration for the prevention of [which produces immunity to] influenza.

(8)[(7)] "Immunize" means to vaccinate.

(9) "Long-term care facility" is defined by KRS 209.550(6).

(10)[(8)] "Medically indicated" means a vaccine is recommended by the ACIP for a person:

(a) Who has not been immunized against a disease; and

(b) For whom vaccination is recommended based on:

1. The age of the person;
2. A preexisting medical condition that may cause the person to be at risk; or
3. An occupation of the person that may put others at risk of contracting the disease.

(11)[(9)] "Outbreak" means two (2) or more cases of influenza, or ILI, occurring in a single long-term care facility during a seventy-two (72) hour period[one (1) week period].

(12)[(10)] "Pneumococcal disease" means a bacterial infection usually involving the lungs producing inflammation caused by Streptococcus pneumoniae, the bacteria commonly referred to as "pneumococcus".

(13)[(11)] "Pneumococcal vaccine" means a vaccine licensed by the Food and Drug Administration for the prevention of pneumococcus; also known as "PPV" means the FDA-licensed twenty-three (23) valent pneumococcal polysaccharide vaccine.

Section 2. Vaccine Availability. (1) If vaccine is available, a long-term care facility shall:

(a) Obtain a sufficient quantity of influenza and pneumococcal vaccine to immunize each employee and[or] resident of a facility for whom the vaccine is medically indicated; or

(b) Enter into an agreement with a local health department or other health care provider to obtain or[and] administer influenza and pneumococcal vaccine to each employee and[or] resident of a facility for whom the vaccine is medically indicated and age-appropriate.

(2) A long-term care facility may charge a third party, a resident, or an employee for the cost of the:

- (a) Vaccine; and
- (b) Administration of the vaccine.

Section 3. Immunization Schedule for Residents. (1) A long-term care facility shall have an infection prevention and control plan in compliance with 42 C.F.R. 483.80.

(2) Influenza immunization shall be offered to each resident in compliance with 42 C.F.R. 483.80(d)(1).

(3) Pneumococcal immunization shall be offered to each resident in compliance with 42 C.F.R. 483.80(d)(2).

Section 4. Immunization for Employees. (1) A long-term care facility shall request that each [current] employee [or resident] agree to be vaccinated on an annual schedule against influenza when the vaccine is:

- (a) Available; and
- (b) Medically indicated; and
- (c) Age-appropriate.

(2) A long-term care facility shall request that each [current] employee [or resident] agree to be vaccinated against pneumococcal disease if the vaccine is:

- (a) Available; and
- (b) Medically indicated; and

(c) Age-appropriate.

(3) ~~Upon admission or employment, a long-term care facility shall request that each new employee or resident agree to be vaccinated on an annual schedule against influenza when the vaccine is:~~

- ~~(a) Available; and~~
- ~~(b) Medically indicated.~~

~~(4) Upon admission or employment, a long-term care facility shall request that each new employee or resident agree to be vaccinated against pneumococcal disease if the vaccine is:~~

- ~~(a) Available; and~~
- ~~(b) Medically indicated.~~

~~(5) If a long-term care facility is located within a larger facility, such as a hospital, the provisions of this administrative regulation shall apply to every employee of the larger facility who may also work in the long-term care facility on a full-time, part-time, or contractual basis.~~

Section 5.4. Health Records. (1) A long-term care facility shall maintain an immunization health record for each employee and/or resident that shall document:

- (a) The immunization status of the employee or resident for influenza virus and pneumococcal disease;
- (b) The date that the employee or resident received counseling on the risks and benefits of the vaccines;
- (c) The date the employee or resident was requested to be immunized against influenza virus and pneumococcal disease; and
- (d) The date the employee or resident was vaccinated against each disease.

(2) If after being advised of the risks and benefits of the vaccine, an employee, resident, or legal guardian of a resident refuses to be vaccinated, as provided in KRS 209.552(5), a long-term care facility shall document in the health record:

- (a) The date each vaccine was offered;
- (b) Each vaccine that was not administered; and
- (c) The reason each vaccine was refused.

Section 6.5. Reporting. (1) Upon recognition of an outbreak of ILI, a long-term care facility shall report the outbreak within twenty four (24) hours, by telephone, facsimile, or e-mail to ~~the~~:

- ~~(a) The local health department having[serving the]~~ jurisdiction ~~[in which the long-term care facility is located]; or~~
- ~~(b) The department [for public health].~~

(2) Upon receipt of a report of an outbreak from a long-term care facility, a local health department shall:

- ~~(a) Immediately notify the department [for Public Health, Division of Epidemiology]; and~~
- ~~(b) Assist the department in carrying out a public health response as instructed.~~

(3) Within one (1) week of reporting an outbreak of ILI, a long-term care facility shall submit a completed EPID 200, Kentucky Reportable Disease Form, incorporated by reference in 902 KAR 2:020, for each affected employee or resident to:

- ~~(a) The local [county] health department having[serving the]~~ jurisdiction ~~[in which the long-term care facility is located]; or~~
- ~~(b) The department [for Public Health, Division of Epidemiology].~~

(4) Upon notification of an outbreak of ILI, the local health department having jurisdiction or the department [for Public Health] shall contact the long-term care facility to make recommendations for appropriate confirmation of the etiology of illness and intervention.

(5) The department ~~[for Public Health]~~ shall maintain a database[data-base] of confirmed occurrences of influenza ~~[and of pneumococcal disease]~~ occurring in long-term care facilities.

(6) All long-term care facilities shall report the seasonal immunization survey utilizing an electronic reporting system provided by the department~~[The Department for Public Health shall maintain a data system to report the number of long-term care residents diagnosed with influenza or pneumococcal disease, and associated complications, and the number of hospitalizations of long-term care facility residents each year due to influenza virus, pneumococcal disease, and associated complications, pursuant to~~

~~the requirements of KRS 209.554(4)].~~

Section 7.6. Educational Literature. ~~[Within ninety (90) days of publication by the CDC,]~~ The department ~~[for Public Health]~~ shall provide each licensed long-term care facility with access to [a camera-ready copy of] the most current vaccine information statements for influenza and pneumococcal disease as published by the CDC.~~[~~

Section 7. Incorporation by Reference. ~~(1) "Kentucky Reportable Disease Form, EPID 200 (Rev. Jan/01)" 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 a.m. to 4:30 p.m.]~~

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFRegs@ky.gov.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(As Amended at ARRS, May 12, 2020)**

922 KAR 2:100. Certification of family child-care homes.

RELATES TO: KRS Chapter 13B, 158.030, 186.018, 186.020, 189.125, 194A.050(1), 199.011(3), (4), 199.894(1), (5), 199.895, 199.8951, 199.896(18), 199.897, 199.898, 199.8982, 214.010, 214.036, 311.646, 314.011(5), 527.070(1), 600.020, 620.020(8), 620.030, 7 C.F.R. 226.20, 16 C.F.R. 1219, 1220, 1221, 45 C.F.R. 98.2, 49 C.F.R. 571.213, 20 U.S.C. 6081-6084, 42 U.S.C. 9831-9852, 9857-9858~~[9857-9858g]~~

STATUTORY AUTHORITY: KRS 194A.050(1), 199.8982(1)(f)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.8982(1)(f) requires the cabinet to promulgate administrative regulations to establish standards for the issuance, monitoring, release of information, renewal, denial, revocation, and suspension of a certificate of operation, and to impose minimum staff-to-child ratios for a family child-care home. The statute authorizes the cabinet to establish minimum safety requirements for operation of a certified family child-care home. This administrative regulation establishes minimum requirements intended to protect the health, safety, and welfare of children cared for by certified family child-care home providers.

Section 1. Definitions. (1) "Assistant" means a person:

- (a) Who meets the requirements listed in Section 2(6) and Section 10(6), (7), and (8) of this administrative regulation; and
- (b) Whose work is either paid or unpaid.

(2) "Cabinet" is defined by the KRS 199.011(3) and 199.894(1).

(3) "Child" is defined by KRS 199.011(4).

(4) "Contract substitute staff member" means a person who temporarily assumes the duties of a regular staff person, meets the requirements established in Section 11 of this administrative regulation, and receives payment from a contract entity rather than the child care center.

(5) "Corporal physical discipline" is defined by KRS 199.896(18).

(6)~~[(5)]~~ "Developmentally appropriate" means suitable for the specific age range and abilities of a child.

~~[(7)]~~~~[(6)]~~ "Family child-care home" is defined by KRS 199.894(5).

~~(8)~~~~(7)~~ "Health professional" means a person ~~actively~~~~currently~~ licensed as a:

- (a) Physician;
- (b) Physician assistant;
- (c) Advanced practice registered nurse; or
- (d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician or advanced practice registered nurse.

~~(9)~~~~(8)~~ "Home" means the private primary residence of the certified family child-care home provider and contiguous property.

~~(10)~~~~(9)~~ "Infant" means a child who is less than twelve (12) months of age.

~~(11)~~~~(10)~~ "Parent" is defined by 45 C.F.R. 98.2.

~~(12)~~~~(11)~~ "Parental or family participation" means a family child-care home's provision of information or inclusion of a child's parent in the child-care home's activities, including~~[such as]~~:

- (a) Distribution of a newsletter;
- (b) Distribution of a program calendar;
- (c) A conference between the provider and the parent; or
- (d) Other activity designed to engage a parent in the program's activities.

~~(13)~~~~(12)~~ "Pediatric abusive head trauma" is defined by KRS 620.020(8).

~~(14)~~~~(13)~~ "Premises" means the building and contiguous property in which child care is certified.

~~(15)~~~~(14)~~ "Preschool-age" means a child who is older than a toddler and younger than school-age.

~~(16)~~~~(15)~~ "Provider" means an owner, operator, or person who:

- (a) Cares for a child in the provider's own home;
- (b) Is not required to be licensed under 922 KAR 2:090; and
- (c) Meets the requirements of Section 2 of this administrative regulation.

~~(17)~~~~(16)~~ "Related" means having one (1) of the following relationships with the provider:

- (a) Child;
- (b) Grandchild;
- (c) Niece;
- (d) Nephew;
- (e) Sibling;
- (f) Step-child; or
- (g) Child in legal custody of the provider.

~~(18)~~~~(17)~~ "School-age child" means a child who meets the age requirements of KRS 158.030 or who attends kindergarten, elementary, or secondary education.

~~(19)~~~~(18)~~ "Toddler" means a child between the age of twelve (12) months and thirty-six (36) months.

Section 2. Certification Process. (1) The cabinet or its designee shall be responsible for certifying a family child-care home.

(2) An applicant for certification shall:

(a) Show proof by photo identification or birth certificate that the individual is at least eighteen (18) years of age;

(b) Obtain commercial liability insurance of at least \$50,000 per occurrence; and

(c) Submit within ninety (90) days of initiation of the application process:

1. A completed OIG-DRCC-03, Initial Certification Application for Family Child-Care Home;

2. A nonrefundable certification fee of ten (10) dollars pursuant to KRS 199.8982(1)(b);

3. Written documentation from the local authority showing the child-care home is in compliance with local zoning requirements;

4. Documentation of the requirements of KRS 199.8982(1)(a)1 through 3 and 5;

5. Background checks completed in accordance with 922 KAR 2:280; and

6. A physician's statement documenting that the family child-care home provider's health is satisfactory for operation of a family child-care home, including that the provider is free of active tuberculosis.

(3) An applicant for certification shall have a:

(a) High school diploma, general equivalency diploma (GED), or documentation from a comparable educational entity; or

(b) Commonwealth Child Care Credential in accordance with

922 KAR 2:250.

(4) An applicant shall be currently certified by an agency approved in accordance with 922 KAR 2:240 in infant and child:

- (a) Cardiopulmonary resuscitation (CPR); and
- (b) First aid.

(5) An adult living in the home of the applicant, present during the hours of operation, or having unsupervised contact with a child in care, and the applicant's assistant shall:

(a) Complete background checks in accordance with 922 KAR 2:280; and

(b) Submit a copy of negative tuberculin results or a health professional's statement documenting that the adult is free of active tuberculosis.

(6) If an adult other than an adult listed on the initial application begins living in the provider's home, present during the hours of operation or having unsupervised contact with a child in care, the adult shall submit to background and health checks within thirty (30) calendar days of residence within the household.

(7) Upon receipt of a completed application for certification, and a nonrefundable certification fee pursuant to KRS 199.8982(1)(b), cabinet staff shall:

(a) Review and process the application; and

(b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b), including review of the evacuation plan in accordance with Section 19(7)~~[48(7)]~~ of this administrative regulation.

(8) If the requirements of 922 KAR 2:280, subsections (1) through (7) of this section, and Sections 10 through 20~~[49]~~ of this administrative regulation have been met, an applicant shall be certified as described in KRS 199.8982.

(9) Within three (3) months of submission to the cabinet of a complete OIG-DRCC-03, an applicant shall:

(a) Demonstrate completion of six (6) hours of cabinet-approved training in accordance with KRS 199.8982(1)(a)6; and

(b) Develop and implement a written plan for obtaining nine (9) hours of annual cabinet-approved training as required in Section 10(1) of this administrative regulation.

(10)(a) A family child-care home certificate shall:

1. Be displayed in a prominent place, as required by KRS 199.8982(1)(c);

2. Contain the:

- a. Name and address of the child care provider;
- b. Maximum number of unrelated children who may be served;
- c. Identification number; and
- d. Effective and expiration dates; and

3. Be valid for only the:

a. Name of the individual authorized on the certificate to operate a family child-care home; and

b. Residential address printed on the certificate.

(b) A certified family child-care home whose certificate is suspended or revoked shall:

1. Receive a new certificate indicating that the provider is under adverse action; and

2. Post the new certificate in accordance with paragraph (a) of this subsection.

(11) A change of location shall require:

(a) A ten (10) calendar day notice;

(b) A completed OIG-DRCC-03;

(c) An inspection of the new home; and

(d) Continued compliance with this administrative regulation.

Section 3. Renewal of Certification. (1) A family child-care certification shall expire two (2) years from the date of issuance unless the certificate holder meets the requirements of subsection (2) of this section. A certificate that expires shall lapse and shall not be subject to appeal.

(2) A family child-care home provider shall submit one (1) month prior to expiration of the provider's certification:

(a) A completed OIG-DRCC-04, Certified Family Child-Care Home Renewal Form;

(b) A nonrefundable renewal fee of ten (10) dollars every two (2) years pursuant to KRS 199.8982(1)(b);

(c) A physician's statement documenting that the family child-

care home provider's health is satisfactory for continued operation of a family child-care home; and

(d) Proof that the family child-care home provider continues to meet the minimum requirements specified in Sections 2, 3, and 10 through 20[49] of this administrative regulation.

(3) The cabinet shall:

(a) Review and process the OIG-DRCC-04 submitted in accordance with subsection (2) of this section;

(b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b); and

(c) Approve the family child-care home within fifteen (15) calendar days of receipt of the OIG-DRCC-04 submitted in accordance with subsection (2) of this section if the requirements in Sections 2, 3, and 10 through 20[49] of this administrative regulation are met.

(4) The cabinet shall conduct an annual unannounced inspection of the home pursuant to KRS 199.8982(1)(b) and 42 U.S.C. 9858c(2)(K).

Section 4. Statement of Deficiency and Corrective Action Plans. (1) If the cabinet finds a provider noncompliant with Sections 2, 3, or 10 through 20[49] of this administrative regulation, the cabinet or its designee shall complete a written statement of deficiency.

(2) Except for a violation posing an immediate threat, a family child-care home shall submit a written corrective action plan to the cabinet or its designee within ten (10) calendar days from receipt of the statement of deficiency to eliminate or correct the regulatory violation.

(3) A corrective action plan shall include:

(a) Specific action undertaken to correct a violation;

(b) The date action was or shall be completed;

(c) Action utilized to assure ongoing compliance;

(d) Supplemental documentation requested as a part of the plan; and

(e) Signature of the provider and the date of signature.

(4) The cabinet or its designee shall review the plan and notify a family child-care home within thirty (30) calendar days from receipt of a plan, in writing, of the decision to:

(a) Accept the plan;

(b) Not accept the plan; or

(c) Deny, suspend, or revoke the family child-care home's certification in accordance with Section 5, 6, 7, or 8 of this administrative regulation.

(5) A notice of unacceptability shall state the specific reasons a plan was not accepted.

(6) A family child-care home notified of an unaccepted plan shall:

(a) Submit an amended plan within fifteen (15) calendar days of notification; or

(b) Have its certification revoked or denied for failure to:

1. Submit an acceptable amended plan; or

2. Implement corrective measures identified in the corrective action plan.

(7) If a family child-care home fails to submit an acceptable corrective action plan or does not implement corrective measures in accordance with the corrective action plan, the cabinet shall deny or revoke a provider's certification.

(8) The cabinet shall not review or accept more than three (3) corrective action plans from a family child-care home in response to the same written statement of deficiency.

(9) An administrative regulatory violation reported on a statement of deficiency that poses an immediate threat to the health, safety, or welfare of a child shall be corrected by the family child-care home provider within five (5) working days of notification.

(10) The voluntary relinquishment of a family child-care home's certification shall not preclude the cabinet's pursuit of adverse action.

Section 5. Denial of Application for Certification. (1) An application for initial certification as a family child-care home shall be denied if the applicant, an assistant, or an adult residing in the household has a history of behavior that may impact the safety or

security of a child in care including:

(a) A disqualifying criterion or background check result in accordance with 922 KAR 2:280; or

(b) Other behavior or condition indicating inability to provide reliable care to a child.

(2) An application for certification as a family child-care home provider shall be denied if the applicant or certificate holder:

(a) Fails to comply with the minimum certification standards specified in Sections 10 through 20[49] of this administrative regulation and KRS 199.8982;

(b) Knowingly misrepresents or submits false information on the application or other form required by the cabinet or its designee;

(c) Refuses, during the hours of operation, access by:

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

a. A child in care; or

b. The provider's premises; or

2. The cabinet, the cabinet's designee, or another agency with regulatory authority to the provider's records;

(d) Is placed on a directed plan of correction more than two (2) times in a three (3) year period; or

(e) Has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud, abuse, or criminal conviction related to that program.

(3) Effect of previous denial or revocation.

(a) If an applicant has had a previous child care registration, certification, or license subject to denial, revocation, or voluntary relinquishment pending an investigation or adverse action, the cabinet shall grant the applicant a certificate to operate a family child-care home if:

1. A seven (7) year period has expired from the:

a. Date of the prior notice of denial or revocation; or

b. Date the certification, license, or registration was voluntarily relinquished as a result of an investigation or a pending adverse action; and

2. The applicant has:

a. The proven ability to comply with the provisions of this administrative regulation and KRS 199.8982;

b. Completed, since the time of the prior denial or revocation, sixty (60) hours of cabinet-approved training in developmentally appropriate child care practice; and

c. Not had an application, registration, certificate, or license to operate as a child care provider denied or revoked for:

(i) A disqualifying criterion or background check result in accordance with 922 KAR 2:280; or

(ii) Discontinuation or disqualification from participation in the Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020, or another governmental assistance program due to fraud, abuse, or criminal conviction related to that program.

(b) If a certificate is granted after the seven (7) year period specified in paragraph (a) of this subsection, the provider shall serve a two (2) year probationary period during which the home shall be inspected on at least a quarterly basis.

Section 6. Directed Plan of Correction (DPOC). (1) If the cabinet determines that a certified family child-care home provider is in violation of this administrative regulation or 922 KAR 2:280, based on the severity of the violation, the cabinet:

(a) Shall enter into an agreement with the provider directing the requirements for remedying a violation and achieving compliance;

(b) Shall notify or require the provider to notify a parent of a child who may be affected by the situation for which a DPOC has been imposed;

(c) Shall increase the frequency of monitoring by cabinet staff to verify the implementation of the DPOC;

(d) May require the certified family child-care home to participate in additional training; and

(e) May amend the agreement with the certified family child-

care home if the cabinet identifies an additional violation during the DPOC period.

(2) A DPOC shall result in a suspension or revocation of certification or shall be modified to impose additional requirements if a certified family child-care home provider:

- (a) Fails to meet a condition of the DPOC; or
- (b) Violates a requirement of the DPOC.

Section 7. Suspension. The cabinet shall take emergency action in accordance with KRS 13B.125. (1) An emergency order issued pursuant to this section shall:

(a) Be served to a certified family child-care home provider in accordance with KRS 13B.050(2); and

(b) Specify the regulatory violation that caused the emergency condition.

(2) Upon receipt of an emergency order, a provider shall surrender the certificate of operation to the cabinet.

(3) The cabinet or its designee and the provider shall make reasonable efforts to:

(a) Notify a parent of each child in care of the suspended provider; and

(b) Refer a parent for assistance in locating alternate child care arrangements.

(4) A certified family child-care home required to comply with an emergency order issued in accordance with this section may submit a written request for an emergency hearing within twenty (20) calendar days of receipt of the order to determine the propriety of the certification's suspension.

(5) The cabinet shall conduct an emergency hearing within ten (10) working days of the request for hearing in accordance with KRS 13B.125(3).

(6)(a) Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming or reversing the emergency order to suspend certification.

(b) The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.

(7) A provider's certification shall be revoked if the condition that resulted in the emergency order is not corrected within thirty (30) calendar days of service of the emergency order.

Section 8. Revocation. (1) A family child-care home provider's certification shall be revoked if a provider:

(a) Knowingly misrepresents or submits false information on the application or other form required by the cabinet or its designee;

(b) Interferes with a cabinet representative's ability to perform an official duty;

(c) Refuses, during the hours of operation, access by:

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

- a. A child in care; or
- b. The provider's premises; or

2. The cabinet, the cabinet's designee, or another agency with regulatory authority to the provider's records;

(d) Is convicted of, or enters an Alford or guilty plea to, a criminal charge that threatens the health, safety, or welfare of a child in care;

(e) Is unable to operate a family child-care home due to a medical condition;

(f) Does not meet the requirements of KRS 199.8982(1) or Sections 2, 3, and Sections 10 through 20[49] of this administrative regulation;

(g) Is placed on a directed plan of correction more than two (2) times in a three (3) year period; or

(h) Has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud, abuse, or criminal conviction related to that program.

(2)(a) If the cabinet determines that a condition of subsection (1) of this section exists, the cabinet or its designee shall send a

written notice of its intention to revoke the certificate to the family child-care home by personal service delivery or through certified mail.

(b) Subsequent to the notice provided in accordance with paragraph (a) of this subsection, a family child-care home's failure to request an appeal pursuant to Section 9 of this administrative regulation shall result in the final determination revoking the home's certification.

(3) The notice of revocation shall:

(a) Explain the reason for the revocation;

(b) Specify that the child care provider shall cease operation as a certified family child-care home upon revocation;

(c) Advise the family child-care home provider of the right to request an appeal on an OIG-DRCC-05, Certified Family Child-Care Home Request for Appeal, prior to the effective date of the revocation;

(d) Specify that revocation shall be stayed if an appeal is requested; and

(e) Require the family child-care home provider to surrender the certificate of operation to cabinet staff when the revocation becomes effective.

(4) If a provider's certification has been revoked, the cabinet or its designee and the provider shall make reasonable efforts to:

(a) Notify a parent of each child in care; and

(b) Refer the parent for assistance in locating alternate child care arrangements.

Section 9. Appeal of Denials, Suspension, and Revocation. (1) If the cabinet denies certification, suspends certification, or revokes certification, the family child-care home provider may request an appeal by completing an OIG-DRCC-05 within twenty (20) calendar days of receipt of the notice of adverse action.

(2) Upon request of the appeal, the provider shall be afforded a hearing in accordance with KRS Chapter 13B.

(3) If a final order from an administrative hearing does not uphold a suspension, the provider may resume providing child care.

Section 10. Standards for the Provider. (1)(a) Between July 1 and June 30 of the following calendar year, a provider shall complete[annually] at least nine (9) hours of cabinet-approved early care and education training beginning[with] the second year of operation, including one and one-half (1 1/2) hours of cabinet-approved pediatric abusive head trauma training in accordance with KRS 199.8982(2) to be completed:

1. Within the second year of employment or operation in child care; and

2. Every subsequent five (5) years of employment or operation in child care.

(b) A provider or assistant's compliance with the training in accordance with paragraph (a) of this subsection or subsection (8) of this section shall be verified through the cabinet-designed database maintained pursuant to 922 KAR 2:240.

(2) A provider shall not provide care for more unrelated children than the number authorized on the certificate of operation.

(3) A provider shall have an assistant present if the provider cares for more than:

(a) Four (4) infants, including the provider's own or related infants; or

(b) Six (6) children under the age of six (6) years old, including the provider's own or related children.

(4) The maximum number of unrelated children in the care of a certified family child-care home provider shall not exceed six (6) at any one (1) time. A provider may care for four (4) related children in addition to six (6) unrelated children for a maximum child care capacity of ten (10) at any one (1) time.

(5) If a provider operates the in-home child care business for twenty-four (24) consecutive hours, the provider shall:

(a) Receive an eight (8) hour period of respite after working sixteen (16) consecutive hours during a twenty-four (24) hour period; and

(b) Employ an assistant during the period of respite.

(6) Prior to being left alone with a child, an assistant shall be

certified by a cabinet-approved agency in infant and child:

- (a) CPR; and
- (b) First aid.
- (7) An assistant shall be:
 - (a) Eighteen (18) years of age or older;
 - (b) Under supervision of a provider;
 - (c) Used for providing care in a certified family child-care home; and
 - (d) Used in the absence of the certified provider.
- (8) An assistant used in excess of fourteen (14) calendar days during a one (1) year period shall demonstrate completion of at least nine (9) hours of cabinet-approved training between July 1 and June 30 of the following calendar year beginning the second year of employment, including:
 - (a) Six (6) hours of cabinet-approved training in accordance with KRS 199.8982(2)[199.8982(1)(a)6]; and
 - (b) Pediatric abusive head trauma training pursuant to KRS 199.8982(2), in accordance with subsection (1) of this section.
- (9) If a provider, an assistant, or a member in a provider's household is named as the alleged perpetrator in a child abuse or neglect report accepted by the cabinet in accordance with 922 KAR 1:330, the individual shall be removed from direct contact with a child in care:
 - (a) For the duration of the investigation; and
 - (b) Pending completion of an administrative appeal process for a cabinet substantiation of child abuse or neglect in accordance with 922 KAR 1:320 or 922 KAR 1:480.
- (10) During hours of operation, a provider and another person in the home shall:
 - (a) Be free of the influence of alcohol or a controlled substance except for use of a controlled substance as prescribed by a physician; and
 - (b) Prohibit smoking or vaping in the presence of children in care.
- (11) During a provider's absence, an assistant shall be physically present with a child in care during hours of operation.
- (12) A provider shall:
 - (a) Not be employed outside of the home during regular hours of operation; and
 - (b) Maintain daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 14[43], if a child receives services from the provider through the Child Care Assistance Program.

Section 11. Contract Substitute Staff Member Requirements.

(1) A contract substitute staff member shall:

- (a) Comply with the training requirements established in Section 10 of this administration regulation;
- (b) Be employed by an outside agency and provide the required documentation to verify the contractual agreement between the certified child-care home and the outside agency;
- (c) Provide a hard copy file containing all required staff records to be kept on-site at the certified child-care home and maintained at the home for five (5) years;
- (d) Be entered into the cabinet-designated database as a staff member of the outside organization in accordance with 922 KAR 2:240;
- (e) Be the responsibility of the certified child-care home while working on-site; and
- (f) Have supervisory authority over a child only if the requirements of 922 KAR 2:280 and this administrative regulation are met.

(2) Except for an employee of a child-care center program authorized by 42 U.S.C. 9831-9852, an owner or employee of a contract agency possessing a Kentucky Early Care and Education Trainer's Credential shall not train an employee of the same contract agency in order to meet the training requirements established in:

- (a) KRS 199.8982(1)(a) 6 and (2), 922 KAR 2:180, 922 KAR 2:240, 922 KAR 2:250, 922 KAR 2:270, or this administrative regulation; or
- (b) A child development associate credential.

Section 12. The General Requirements of the Family Child-Care Home Environment. (1) A provider's home and each play area used for child care shall:

- (a) Be free from risk of harm in accordance with the requirements of this administrative regulation; and
- (b) Have adequate:
 - 1. Heating and cooling;
 - 2. Light; and
 - 3. Ventilation.
- (2) Each floor level used for child care shall have at least one (1):
 - (a) Unblocked exit to the outside;
 - (b) Smoke detector;
 - (c) Fire extinguisher; and
 - (d) Carbon monoxide detector if the home:
 - 1. Uses fuel burning appliances; or
 - 2. Has an attached garage.
 - (3) The areas of the home that are accessible to children in care shall be free from items harmful to children including the following items:
 - (a) Cleaning supplies, poisons, paints, and insecticides;
 - (b) Knives, scissors, and sharp objects;
 - (c) Power tools, lawn mowers, hand tools, nails, and other equipment;
 - (d) Matches, cigarettes, lighters, combustibles, and flammable liquids;
 - (e) Plastic bags; and
 - (f) Litter and rubbish.
 - (4) Alcohol shall:
 - (a) Not be consumed by any person on the certified family child-care home's premises during hours of operation; and
 - (b) Be kept out of reach and sight of a child in care.
 - (5) In accordance with KRS 527.070(1), firearms and ammunition shall be stored away from the presence of children, in separate locked containers, which, in order to be opened, require a:
 - (a) Key; or
 - (b) Combination.
 - (6) Electrical outlets not in use shall be covered.
 - (7) An electric fan, floor furnace, or freestanding heater or fireplace shall:
 - (a) Be out of the reach of a child; or
 - (b) Have a safety guard to protect a child from injury.
 - (8) A certified family child-care home shall have:
 - (a) At least one (1) accessible and working telephone on each level used for child care while a child in care is present on that level; and
 - (b) A list of emergency numbers posted on each level used for child care or maintained in the contacts of each telephone, including numbers for the:
 - 1. Police;
 - 2. Fire station;
 - 3. Emergency medical care and rescue squad; and
 - 4. Poison control center.
 - (9) Equipment and toys shall be:
 - (a) Designated by the manufacturer as developmentally appropriate to the age of children in care;
 - (b) In sufficient quantity for the number of children in care; and
 - (c) Safe, sound, clean, and in good repair.
 - (10) Stairs and steps used for children in care shall be:
 - (a) Solid;
 - (b) Safe; and
 - (c) Railed.
 - (11) If an infant or toddler is in the care of a provider, indoor stairs with more than two (2) steps shall be blocked.
 - (12) Exclusive of the bathroom and storage area, an indoor area, including furnishings, used for child care shall contain at least thirty-five (35) square feet per child for:
 - (a) Play; and
 - (b) Activities that meet the developmental needs of the children in care.
 - (13) An outdoor play area shall be free of unavoidable danger

or risk.

(14) Each child in an outdoor play area shall be under the direct supervision of the provider or assistant.

(15) Outdoor stationary play equipment shall be:

- (a) Securely anchored;
- (b) Developmentally appropriate; and
- (c) Safe.

(16) A trampoline shall not be accessible to a child in the care of a provider.

(17) A swimming pool on the premises shall:

- (a) Be maintained and free of debris and body waste;
- (b) Have a water filtering system or be emptied daily;
- (c) Be supervised when in use; and
- (d) Be inaccessible to a child when not in use.

(18) An above-ground pool shall have:

- (a) A stationary wall no less than four (4) feet tall; and
- (b) Hand holds or foot holds that are inaccessible when the pool is not in use.

(19) A fire drill shall be:

- (a) Conducted during hours of operation at least monthly; and
- (b) Documented.

(20) An earthquake drill and a tornado drill shall be:

- (a) Conducted during hours of operation at least quarterly; and
- (b) Documented.

(21) A family child-care home shall:

- (a) Be clean;
- (b) Be uncluttered;
- (c) Be free of insects and rodents;
- (d) Have a water supply that is:

- 1. Potable;
- 2. Adequate; and
- 3. From an approved public water supply; and

(e) Have bathrooms, including toilets, sinks, and potty chairs that are:

- 1. Sanitary; and
- 2. In good working condition.

(22) Windows, doors, and outer openings shall be screened to prevent the entrance of vermin.

(23) Indoor and outdoor garbage shall be stored in a waterproof container with a tight-fitting cover.

(24) Playpens and play yards shall:

- (a) Meet the federal standards as issued by the Consumer Product Safety Commission, including 16 C.F.R. 1221;
- (b) Be manufactured for commercial use; and
- (c) Not be used for sleeping or napping.

Section 13[42]. Care Requirements for a Provider. (1) A provider shall ensure the health, safety, and comfort of each child.

(2)(a) Care for a child with a special need shall be consistent with the nature of the need as documented by the child's health professional.

(b) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.

(3) Television or video viewing by a child shall be limited to:

- (a) Two (2) hours daily;
- (b) The planned program activities; and

(c) Developmentally appropriate child-related content, as designated by standardized content guidelines.

(4) A child shall:

(a) Wash hands with liquid soap and warm running water:

- 1. Before and after eating or handling food;
- 2. After toileting or diaper change;
- 3. After handling animals;
- 4. After touching an item or an area of the body soiled with body fluids or waste; and
- 5. After outdoor and indoor play time; or

(b) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (a) of this subsection. The child shall wash the child's hands as soon as practicable once liquid soap and warm running water are available.

(5) A provider and an assistant shall:

(a) Wash hands with liquid soap and warm running water:

- 1. Before and after diapering a child;
- 2. Before and after feeding a child;
- 3. After toileting or assisting a child with toileting;
- 4. After handling animals;
- 5. Before dispensing medication;
- 6. After caring for a sick child;
- 7. After wiping or blowing a child's or own nose; and
- 8. After smoking or vaping; or

(b) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (a) of this subsection. The provider or assistant shall wash the provider or assistant's hands as soon as practicable once liquid soap and warm running water are available.

(6) A provider shall ensure[assure] that a child does not share:

- (a) Cups;
- (b) Eating utensils;
- (c) Wash cloths;
- (d) Towels; and
- (e) Toiletry items.

(7) An infant shall sleep and nap on the infant's back unless the infant's health professional signs a waiver that states the infant requires an alternate sleeping position.

(8) Rest time shall be provided for each child who is not school-age and who is in care for more than four (4) hours.

(9) Rest time shall include adequate space specified by the child's age as follows:

(a) For an infant:

- 1. An individual non-tiered crib that meets Consumer Product Safety Commission standards established in 16 C.F.R. 1219-1220;
- 2. A firm crib mattress in good repair with a clean tight-fitted sheet that is changed:

- a. Weekly; or
- b. Immediately if it is soiled or wet;
- 3. No loose bedding, such as a bumper or a blanket; and
- 4. No toys or other items except for the infant's pacifier; or

(b) For a toddler or preschool-age child:

- 1. An individual bed, a two (2) inch thick waterproof mat, or cot in good repair; and
- 2. Bedding that is in good repair and is changed:

- a. Weekly; or
- b. Immediately if it is soiled or wet.

(10) Rest time shall not exceed two (2) hours for a preschool-age child unless the child is attending nontraditional hours or is sick.

(11) A child who does not sleep shall be permitted to play quietly and be visually supervised.

(12) If overnight care is provided, a provider or an assistant shall:

- (a) Remain awake until every child in care is asleep; and
- (b) Sleep on the same floor level of the home as an infant or toddler.

(13) A certified family child care home shall provide a daily planned program:

(a) That is available to a parent of a child in care or the cabinet upon request;

(b) Of activities that are developmentally appropriate for each child served;

(c) That provides experience to promote the individual child's physical, emotional, social, and intellectual growth and well-being; and

(d) That offers a variety of creative activities, such as:

- 1. Art or music;
- 2. Math or numbers;
- 3. Dramatic play;
- 4. Stories and books;
- 5. Science or nature;
- 6. Block building or stacking;
- 7. Tactile or sensory activity;
- 8. Multi-cultural exposure;
- 9. Indoor or outdoor play in which a child makes use of both small and large muscles;
- 10. A balance of active and quiet play, including group and individual activity; and

11. An opportunity for a child to:
- Have some free choice of activities;
 - If desired, play apart from the group at times; and
 - Practice developmentally appropriate self-help procedures in respect to:
 - Clothing;
 - Toileting;
 - Hand-washing; and
 - Eating.
- (14) Except for a school-aged child whose parent has given written permission and whose whereabouts are known, a child shall not be permitted off the premises of a family child-care home without a caregiver.
- (15) Use of corporal physical discipline shall be prohibited pursuant to KRS 199.896(18).
- (16) A child shall be released from a family child-care home to:
- The child's custodial parent;
 - The person designated in writing by the parent to receive the child; or
 - In an emergency, a person designated over the telephone by the parent.

Section 14[43]. Toilet and Diapering Requirements. (1) A toilet room shall:

- Have an adequate supply of toilet paper; and
 - Be cleaned and disinfected daily.
- (2) A sink shall be:
- Located near or in close proximity to toilets;
 - Equipped with hot and cold running water that allows for hand washing;
 - Equipped with hot water at a minimum temperature of ninety (90) degrees Fahrenheit and a maximum of 120 degrees Fahrenheit;
 - Equipped with liquid soap and single use, disposable hand drying material;
 - Equipped with an easily cleanable, covered waste receptacle; and
 - Near or in close proximity to a changing area used for infants and toddlers.
- (3) Each toilet shall:
- Be kept in clean condition;
 - Be kept in good repair;
 - Be in a lighted room; and
 - Have ventilation.
- (4) Toilet training shall be coordinated with the child's parent.
- (5) An adequate quantity of freshly laundered or disposable diapers and clean clothing shall be available.
- (6) If a toilet training chair is used, the chair shall be:
- Emptied promptly; and
 - Disinfected after each use.
- (7) Diapers or clothing shall be:
- Changed when soiled or wet;
 - Stored in a covered leak proof container temporarily; and
 - Washed or disposed of at least once a day.
- (8) The proper methods of diapering and hand-washing shall be available at each diaper changing area.
- (9) If a child is being diapered, the child shall:
- Not be left unattended; and
 - Be placed on a surface that is:
 - Clean;
 - Padded;
 - Free of holes, rips, tears, or other damage;
 - Nonabsorbent;
 - Easily cleaned; and
 - Free of items not used for diaper changing.
- (10) Unless another cleaning method is authorized by the child's parent or prescribed by a physician, individual disposable washcloths shall be used to thoroughly clean the affected area of a child.
- (11) A provider or an assistant shall disinfect the diapering surface after each child is diapered.
- (12) If a provider or an assistant wear disposable gloves, the gloves shall be changed and disposed of after each child is

diapered.

Section 15[44]. Food Requirements. (1) A provider and an assistant shall:

- Use sanitary procedures when preparing and serving food;
- Refrigerate perishable food and beverages; and
- Serve:
 - Breast milk or iron-fortified formula to a child:
 - Age birth to twelve (12) months; or
 - Beyond twelve (12) months of age as documented by the parent or the child's physician;
 - Pasteurized whole milk to a child age twelve (12) months to twenty-four (24) months; or
 - Pasteurized skim or low fat one (1) percent milk to a child age twenty-four (24) months to school-age.
- Water shall be:
 - Available to a child in care; and
 - Served in addition to meal requirements if a child requests throughout the day.
- A certified family child-care home shall offer each child the same food items unless the child's parent or health professional documents a dietary restriction that necessitates an alternative food item for the child.
- Second servings shall be available to a child.
- Food shall not be:
 - Used for:
 - Reward; or
 - Discipline; or
 - Withheld until all other food items are consumed.
- Meals shall:
 - Be served in an amount appropriate to the age of the child;
 - Include appropriate types of food according to the age of the child;
 - Not be served during television or video viewing;
 - Be served every two (2) to three (3) hours; and
 - Be served to a child:
 - Seated with sufficient room to manage food and tableware; and
 - Supplied with individual eating utensils designed for use by a child.
- Breakfast shall include:
 - Milk;
 - A whole grain or an enriched grain bread; and
 - Fruit, vegetable, or 100 percent juice.
- A snack shall include two (2) of the following:
 - Milk;
 - Protein source;
 - Fruit, vegetable, or 100 percent juice; or
 - A whole grain or an enriched grain bread.
- Lunch and dinner shall include:
 - Milk;
 - Protein source;
 1. Two (2) vegetables;
 2. Two (2) fruits; or
 3. One (1) fruit and one (1) vegetable; and
 - A whole grain or an enriched grain bread.
- A weekly menu shall be:
 - Prepared;
 - Dated;
 - Available to a parent of a child in care or the cabinet upon request; and
 - Kept on file for thirty (30) calendar days.
- Substitutions to a weekly menu shall be noted on the day the meal is served.
- Unless provided as part of the fee for child care or the provider is a participant in the food program, an infant's formula shall be prepared, labeled, and provided by the parent.
- Each child's bottle shall be:
 - Labeled;
 - Covered; and
 - Refrigerated.
- The refrigerator shall:
 - Be in working order; and

(b) Maintain a product temperature at or below forty-five (45) degrees Fahrenheit.

(15) Except if thawed for preparation or use, frozen food shall be kept at a temperature of zero degrees Fahrenheit as verified by a thermometer in the freezer.

(16) While bottle-feeding an infant, the:

(a) Child shall be held; and

(b) Bottle shall not be:

1. Propped;

2. Left in the mouth of a sleeping infant; or

3. Heated in a microwave.

(17) A certified family child-care home shall meet requirements of subsections (1)(c) and (7) through (9) of this section if the provider participates in the Child and Adult Food Care Program and meets meal requirements specified in 7 C.F.R. 226.20.

Section 16[45]. Medication and First Aid. (1) Medication, including medicine that requires refrigeration, shall be stored in a locked container or area with a lock unless the medication is:

(a) A first aid supply. A first aid supply shall be maintained in accordance with subsection (4) of this section;

(b) Diaper cream, sunscreen, or toothpaste. Diaper cream, sunscreen, or toothpaste shall be inaccessible to a child in care;

(c) An epinephrine auto-injector. A family child-care home shall comply with KRS 199.8951, including:

1. An epinephrine auto-injector shall be inaccessible to a child in care;

2. A certified family child-care home provider shall have training on the administration of an epinephrine auto-injector if the provider maintains an epinephrine auto-injector for a child;

3. A certified family child-care home shall seek emergency medical care for a child if an auto-injector is administered to a child; and

4. A certified family child-care home shall report to the child's parent and the cabinet in accordance with subsection (6) of this section and Section 20(10) [49(10)] of this administrative regulation if an epinephrine auto-injector is administered to a child; or

(d) An emergency or rescue medication for a child in care, such as medication to respond to diabetic or asthmatic condition, as prescribed by the child's physician. Emergency or rescue medication shall be inaccessible to a child in care.

(2) Prescription and nonprescription medication shall be administered to a child in care:

(a) With a written request of the child's parent or the child's prescribing health professional; or

(b) In accordance with KRS 311.646.

(3) Prescription and nonprescription medications shall be:

(a) Labeled; and

(b) Administered according to directions or instructions on the label.

(4) A provider shall:

(a) Maintain first aid supplies that are easily accessible for use in an emergency, and these supplies shall be inaccessible to the children in care; and

(b) Wash superficial wounds with soap and water before bandaging.

(5) First aid supplies shall include a fully-equipped first aid kit containing the following non-expired items:

(a) Adhesive bandages;

(b) Sterile gauze;

(c) Medical tape;

(d) Scissors;

(e) Thermometer;

(f) Disposable gloves; and

(g) CPR mouthpiece.

(6) A provider shall provide immediate notification of a medical emergency to a child's:

(a) Parent; or

(b) Emergency contact, if the parent is unavailable.

(7) A quiet, separate area that is easily supervised shall be provided for a child too sick to remain with other children.

(8) A provider and an assistant shall:

(a) Be able to recognize symptoms of childhood illnesses;

(b) Be able to provide basic first aid; and

(c) Maintain a child care program that assures affirmative steps are taken to protect children from abuse or neglect pursuant to KRS 600.020(1).

Section 17[46]. Animals. (1) An animal shall not be allowed in the presence of a child in care:

(a) Unless:

1. The animal is under the supervision and control of an adult;

2. Written parental consent has been obtained; and

3. The animal is certified as vaccinated against rabies; or

(b) Except in accordance with subsection (3) of this section.

(2) A parent shall be notified in writing if a child has been bitten or scratched by an animal.

(3) An animal that is considered undomesticated, wild, or exotic shall not be allowed at a certified family child-care home unless the animal is:

(a) A part of a planned program activity led by an animal specialist affiliated with a zoo or nature conservatory; and

(b) In accordance with 301 KAR 2:081 and 301 KAR 2:082.

Section 18[47]. Transportation. (1) If transportation is provided or arranged by the certified family child-care home provider, the provider shall:

(a) Have written permission from a parent to transport his or her child;

(b) Have a car or van equipped with seat belts;

(c) Require that a child:

1. Be restrained in an appropriate safety seat meeting state and federal motor vehicle safety standards in accordance with KRS 189.125 and 49 C.F.R. 571.213;

2. Remain seated while the vehicle is in motion; and

3. If under thirteen (13) years of age, be transported in the back seat;

(d) Have emergency and identification information about each child in the vehicle if children are being transported; and

(e) Conform to state laws pertaining to vehicles, driver's license, and insurance pursuant to KRS 186.020.

(2) A child shall not be left unattended:

(a) At the site of aftercare delivery; or

(b) In a vehicle.

(3) A child shall not be left in a vehicle while it is being repaired.

(4) The back of a pickup truck shall not be used to transport a child.

(5) Firearms, ammunition, alcohol, or illegal substances shall not be transported in a vehicle transporting children.

(6) A vehicle shall not transport children and hazardous materials at the same time.

(7) A vehicle transporting a child shall have the headlamps on.

(8) If the driver is not in the driver's seat, the:

(a) Engine shall be turned off;

(b) Keys shall be removed; and

(c) Emergency brake shall be set.

(9) A driver of a vehicle transporting a child for a certified provider shall:

(a) Be at least twenty-one (21) years old;

(b) Complete:

1. The background checks described in Section 2(2)(c)5 or 2(5) of this administrative regulation; and

2. An annual check of the:

a. Kentucky driver history records in accordance with KRS 186.018; or

b. Driver history records through the state transportation agency that issued the driver's license;

(c) Hold a current driver's license that has not been suspended or revoked during the last five (5) years; and

(d) Not caused an accident which resulted in the death of a person.

(10) Based on the harm, threat, or danger to a child's health, safety, and welfare, the cabinet shall pursue an adverse action in accordance with Section 5, 6, 7, or 8 of this administrative regulation:

- (a) For a violation of this section; or
- (b) If the provider:

- 1. Fails to report an accident in accordance with Section 20(10)(a)[49(40)(a)] of this administrative regulation; or
- 2. Transports more passengers than the vehicle's seating capacity and safety restraints can accommodate.

Section 19[48]. Records. (1) A provider shall maintain:

(a) A current immunization certificate for each child in care within thirty (30) days of the child's enrollment, unless an attending physician or the child's parent objects to the immunization of the child pursuant to KRS 214.036;

(b) A written record for each child:

- 1. Completed and signed by the child's parent;
- 2. Retained on file on the first day the child attends the family child-care home; and
- 3. To contain:
 - a. Identifying information about the child, which includes, at a minimum, the child's name, address, and date of birth;
 - b. Contact information to enable the provider to contact the child's:

- (i) Parent at the parent's home or place of employment;
- (ii) Family physician; and
- (iii) Preferred hospital;

c. The name of each person who is designated in writing to pick-up the child;

d. The child's general health status and medical history including, if applicable:

- (i) Allergies;
- (ii) Restriction on the child's participation in activities with specific instructions from the child's parent or health professional; and

(iii) Permission from the parent for third-party professional services in the family child-care home;

e. The name and phone number of each person to be contacted in an emergency situation involving or impacting the child;

f. Authorization by the parent for the provider to seek emergency medical care for the child in the parent's absence; and

g. A permission form for each trip away from the family child-care home signed by the child's parent in accordance with Section 18(1)[47(4)] of this administrative regulation; and

(c) Daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 14[43], if a child receives services from the provider through the Child Care Assistance Program.

(2) A certified family child-care home provider shall maintain the confidentiality of a child's records.

(3) The cabinet shall provide, upon request, public information pursuant to KRS 199.8982(1)(d) and (e).

(4) A certified family child-care home provider shall:

(a) Report an incident of suspected child abuse or neglect pursuant to KRS 620.030[620.030(4)]; and

(b) Provide the cabinet access and information in the completion of the investigation pursuant to KRS 620.030[620.030(4)].

(5) A certified family child-care home provider shall maintain a written record of:

(a) Quarterly practiced earthquake drills and tornado drills detailing the date, time, and participants in accordance with Section 12(20)[44(20)] of this administrative regulation;

(b) Monthly practiced fire drills detailing the date, time, and participants in accordance with Section 12(19)[44(19)] of this administrative regulation; and

(c) Reports to the cabinet that are required in accordance with Section 20(10)[49(49)] of this administrative regulation.

(6) A certified family child-care home provider shall keep all records for five (5) years.

(7)(a) A certified family child-care home provider shall have a written evacuation plan in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to a child in care in accordance with KRS 199.895.

(b) The cabinet shall post an online template of an evacuation plan that:

- 1. Fulfills requirements of KRS 199.895;
- 2. Is optional for an applicant or a family child-care home's use; and
- 3. Is available to an applicant or a family child-care home without charge.

Section 20[49]. Certified Family Child-Care Home Program. The certified family child-care home provider shall:

(1) Develop written information that specifies the:

- (a) Rate for child care;
- (b) Expected frequency of payment for the program;
- (c) Hours of operation; and
- (d) Policy regarding:

- 1. Late fees;
- 2. Holidays;
- 3. Vacation;
- 4. Illness; and
- 5. Emergency pick up;

(2) Make available a copy of the certification standards to each parent;

(3) Provide each parent with the name, address, and telephone number of the cabinet for the purpose of registering a complaint if the parent believes the family child-care home provider is not meeting the standards;

(4) Post and provide to each parent a copy of children and parent rights, as required by KRS 199.898;

(5) Allow a parent, the cabinet, the cabinet's designee, or another agency with regulatory authority access to the family child-care home at any time a child is in care;

(6) Communicate with each child's parent about the child's:

- (a) Development;
- (b) Activities;
- (c) Likes; and
- (d) Dislikes;

(7) Make available to a parent upon request:

(a) The staff to child ratios described in Section 10 of this administrative regulation;

(b) The planned program of activities;

(c) Each statement of deficiency issued by the cabinet during the current certification period;

(d) Each plan of correction submitted by the certified family child-care home to the cabinet during the current certification period; and

(e) Daily schedule including any trips outside the family child-care home;

(8) Coordinate at least one (1) annual activity involving parental or family participation;

(9) Maintain a written child care agreement with each child's parent, including the name of each person designated by the parent to pick up the child; and

(10) Report:

(a) The following to the cabinet within twenty-four (24) hours from the time of discovery:

1. A communicable disease, which shall also be reported to the local health department pursuant to KRS 214.010;

2. An accident or injury to a child that requires medical care;

3. An incident that results in legal action by or against the family child-care home that:

a. Affects:

- (i) A child in care;
- (ii) The provider;
- (iii) An assistant; or
- (iv) A member of the provider's household; or

b. Includes the provider's discontinuation or disqualification from a governmental assistance program due to fraud, abuse, or criminal conviction related to that program;

4. An incident involving fire or other emergency, including a vehicular accident when the provider is transporting a child receiving child care services; or

5. A report of child abuse or neglect that:

a. Has been accepted by the cabinet in accordance with 922

KAR 1:330; and

b. Names the alleged perpetrator as the:

(i) Provider;

(ii) Provider's assistant; or

(iii) Member of the provider's household;

(b) The death of a child to the cabinet within one (1) hour;

(c) Temporary or permanent closure as soon as practicable to the cabinet and the parent of a child in the family child-care home; or

(d) A child care staff member meeting a disqualifying criterion or background check result in accordance with 922 KAR 2:280.

Section 21[20]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "OIG-DRCC-03, Initial Certification Application for Family Child-Care Home", 8/2018;

(b) "OIG-DRCC-04, Certified Family Child-Care Home Renewal Form", 8/2018; and

(c) "OIG-DRCC-05, Certified Family Child-Care Home Request for Appeal", 2018.

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

CONTACT PERSON: Donna Little, Deputy Executive Director, 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.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

SECRETARY OF STATE
(Amended After Comments)

30 KAR 8:005. Notary public application; requirements for notarial acts performed with respect to electronic records and for remotely located individuals; notary public discipline[Notary Public applications and electronic and online registrations].

RELATES TO: KRS Chapter 423

STATUTORY AUTHORITY: KRS 423.355, 423.390, 423.395, 423.415, 423.455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 423.415, KRS 423.390, 423.415, and 423.455 authorize the Secretary of State to promulgate administrative regulations to implement KRS 423.415 to 423.455. This emergency administrative regulation establishes definitions, prescribes the process of granting, renewing, conditioning or denying a notary commission, establishes standards for the performance of notarial acts with respect to electronic records, establishes standards for the performance of online notarial acts, establishes standards for the retention of records and by notaries public authorized to perform notarial acts with respect to electronic records and notarial acts involving remotely located individuals using communication technology, and prescribes the manner of performing notarial acts for tangible records.

Section 1. Definitions. Words and terms defined in KRS 423.300 shall have the same meaning in this chapter. For the purposes of this chapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise.

(a) "Digital Certificate" means an electronic record, issued by a third party certificate authority, which certifies the ownership of a public key, rendering an electronic document as tamper-evident.

(b) **"Electronic record" means information contained in or on a medium that requires electricity to be perceived. ["Member of the notary public's immediate family" means a spouse, former spouse, a grandparent, a grandchild, a parent, a child, a stepchild or any other person living in the same household.]**

(c) **"Online notary public" means a notary public who has registered to perform electronic notarizations. ["Online notarial act" means an electronic notarization performed for a remotely located individual facilitated by communication technology.]**

(d) "Notary technology" means an electronic device or process that allows a notary public to perform notarial acts with regard to electronic documents with or without the use of communication technology.

(e) "Tangible record" means information contained in or on a medium, whether an original or duplicate, that can be perceived without the requirement of electricity.

Section 2. Notary Public Application, Approval or Denial of Application, Voluntary Termination and Required Notice of Change of Information.

(a) Application. An application for a commission as a notary public shall be submitted on a form provided for that purpose by the Office of the Secretary of State or submitted on an electronic portal established by the Office of the Secretary of State for that purpose. A person who executes an application for filing with the Secretary of State shall be deemed to have declared under penalty of perjury that to the person's knowledge, the contents of the application are true. Every application for a notarial commission must include:

- (1) The full legal name of the applicant;
- (2) The email address of the applicant;
- (3) A telephone number for the applicant;
- (4) The signature of the applicant;
- (5) The county for which the application is being made;

(6) The physical and mailing address within the county of application where the applicant resides or is employed;

(7) A statement of whether the applicant has previously held a notary commission, the name under which the applicant was previously commissioned and the date at which the most recent commission expired;

(8) A statement that the applicant is at least eighteen years of age;

(9) A statement that the applicant is a citizen or permanent legal resident of the United States;

(10) A statement that the applicant is able to read and write English;

(11) A statement identifying the surety provider from which the applicant intends to obtain surety;

(12) A statement that the applicant is not disqualified from becoming a notary public under the provision of KRS Chapter 423 or this chapter;

(13) A statement that the applicant is not disqualified for any reason under Section 2(2)(a) - (c); and

(14) Payment of the required fee.

(b) Approval or Denial of Application.

(1) Approval of Application. If the applicant has complied with the provisions of KRS Chapter 423 and this chapter, the application shall be approved. A notary commission is effective as of the date of entry of that commission in the database of notary publics on the website of the Secretary of State.

(2) Disapproval of Application. The Secretary of State may disapprove the application for the following reasons:

(i) The notary public's failure to comply with KRS Chapter 423 or the provisions of this chapter or the existence of a pending inquiry regarding the notary public's failure to comply with KRS Chapter 423 and this chapter;

(ii) Any information required under this administrative regulation is missing, inaccurate, incomplete or cannot be independently verified;

(iii) A fraudulent, dishonest or deceitful misstatement or omission of fact in the submitted application;

(iv) A finding against, or admission of liability by the applicant in any legal proceeding or disciplinary action based on the applicant's fraud, dishonesty, or deceit;

(v) The denial, refusal to renew, revocation, or suspension of an applicant's notary commission or registration in another state; or

(vi) Failure of the applicant to maintain an assurance.

(3) If the application or registration is disapproved, the Secretary of State will state the reasons for the disapproval.

(c) Voluntary Termination of Notary Commission. A notary public may terminate a notary commission by notifying the Office of the Secretary of State of that intent, in writing at: Secretary of State, Division of Corporations, Notary Commissions, P.O. Box 821, Frankfort, Kentucky 40602 or on any electronic portal created by the Office of the Secretary of State for that purpose. Submission of a notification of termination of a notary commission automatically terminates any notary registration.

(d) Change of Information. A notary public must notify the Office of the Secretary of State, in writing at: Secretary of State, Division of Corporations, Notary Commissions, P.O. Box 821, Frankfort, Kentucky 40602, of any change of the following information during the period of the notary's commission, within ten days of the change, on a form promulgated by the Office of the Secretary of State for that purpose or on any electronic portal created by the Office of the Secretary of State for that purpose:

(i) A change in the mailing, physical or electronic mail address of the notary public;

(ii) A change in the county of residence of the notary public;

(iii) A change in the legal name of the notary public;

(iv) A change in the notary public's signature;

(v) A change in the notary public's electronic signature, if any; and

(vi) A change in the notary technology used by the notary

public.

**Section 3. Registration to Perform Notarial Acts with Respect to Electronic Records and Electronic Notarizations;
Electronic and Online notarization].**

(a) Authority to perform electronic and online notarial acts.

(1) Electronic notarial acts. A notary public [An individual] shall register [is authorized] to perform notarial acts with respect to electronic records by: [

~~(i) Being duly and currently commissioned as a notary public under KRS 423.390 or KRS 423.010 and KAR 8:005 Section 2;~~

~~(ii) Registering with the Secretary of State under Section 2 of this administrative regulation to perform electronic notarial acts; and~~

~~(iii) Receiving written authorization to perform electronic notarial acts from the Secretary of State under Section 3 of this administrative regulation.~~

(2) Online notarial acts. An individual is authorized to perform online notarial acts by:

~~(i) Being duly and currently commissioned as a notary public under KRS 423.390 or KRS 423.010;~~

~~(ii) Registering with the Secretary of State under Section 2 of this administrative regulation to perform online notarial acts; and~~

~~(iii) Receiving written authorization to perform online notarial acts from the Secretary of State under Section 3 of this administrative regulation.~~

~~(3) An individual who is authorized to perform online notarial acts under this section is also authorized to perform electronic notarial acts.~~

(b) Registration procedures.

~~(1) Registration format. Registration under this section shall be by electronic registration] submitting the following information~~ to the Secretary of State~~[pursuant to KRS 423.390 and shall include the following information]:~~

~~(i) The registrant's [individual's] full legal name;~~

~~(ii) The county in which the registrant [individual] resides or has his or her place of employment or practice in this Commonwealth;~~

~~(iii) The registrant's date of birth;~~

~~(iv) The registrant's notary identification number and the expiration date of the registrant's notary commission;~~

~~(v) The electronic mail address [physical] and mailing address where the registrant resides or is employed;~~

~~(vi) An indication of whether the registrant [individual] is registering to perform [electronic] notarial acts with respect to electronic records or electronic notarizations [online notarial acts], or both;~~

~~(vii) A description of the notary technology that the registrant [individual] intends to use to perform [electronic] notarial acts with respect to electronic records or electronic notarizations[and/or online notarial acts], or both, including the technologies or devices to maintain the journal required under KRS 423.380 and to render electronic records tamper-evident after a notarial act is completed;~~

~~(viii) A copy of the applicant's electronic signature, the digital certificate required under 30 KAR 8:005 Section 4 the official stamp, if any, along with any necessary instructions or techniques supplied by a vendor or notary that allows the signature and stamp to be read and authenticated, in a portable document format (.pdf) file format[acceptable to the Secretary of State];~~

~~(ix) The name, address, and Web site URL of any vendors or other persons that will directly supply the registrant [notary public] with technology that he or she [the notary public] intends to use;~~

~~(x) A statement of whether the notary technology provider has registered with the Secretary of State;~~

~~(xi) A copy of any necessary instructions or techniques supplied by a vendor that allow the registrant [notary] to conduct identity proofing and credential analysis;~~

~~(xii) An explanation of the methods or technology by which the registrant [notary] will maintain and store the journal required by~~

KRS 423.380;

(xiii) A statement that the technologies or devices named in the registration are compliant with KRS Chapter 423 and with this chapter;

~~(xiv) A copy of the registrant's [The county, book and page where the notary's] surety bond in the amount of \$1,000[is recorded];~~

(xv) A disclosure of any convictions, professional license or commission revocations, professional disciplinary actions or other disqualifying actions or proceedings taken under the laws of any state against the registrant [notary public].

(2) Submission of registration form. The registration must be submitted electronically to Secretary of State as provided by information posted on the Secretary of State's Web site at <https://sos.ky.gov/>.

(3) Use of additional vendors. If, during the term of a notary public's commission, the notary public intends to use the technologies of another vendor or person than those identified in Section (1)(i) of this section, then an additional notification identifying such other vendors or other persons must be submitted to the Secretary of State as provided in this section and in accordance with the manner established by the Secretary of State as posted on the Secretary of State's Web site at <https://sos.ky.gov/>.

(c) Approval or disapproval by the Secretary of State.

(1) Approval of registration. If ~~[the provider of the technology identified by the notary public in the registration required under Section 2 of this administrative regulation has registered with the Secretary of State, and]~~ the registrant has complied with the provisions of KRS Chapter 423 and this chapter, the registration to perform notarial acts with respect to electronic records shall be approved within thirty (30) days of its submission. A registration is effective as of the date of entry of that registration in the database of the Secretary of State.

(2) Disapproval of registration. The Secretary of State may disapprove the registration and reject the notary public's registration for the following reasons:

~~(i) The notary public's failure to comply with KRS Chapter 423 or the provisions of this chapter or a pending inquiry regarding the notary public's failure to comply with KRS Chapter 423 and this chapter;~~

~~(ii) Any information required under Section 2 of this administrative regulation is missing, inaccurate, or incomplete;~~

~~(iii) A fraudulent, dishonest, or deceitful misstatement or omission in the submitted registration;~~

~~(iv) A finding against, or admission of liability by, the registrant in any legal proceeding or disciplinary action based on the registrant's fraud, dishonesty, or deceit;~~

~~(v) Denial, refusal to renew, revocation, or suspension of a notary commission or registration in another state;~~

~~(vi) Failure of the notary to maintain a surety bond in the amount of \$1,000[an assurance]; or~~

~~(vii) The provider of the technology identified by the notary public has not registered with the Secretary of State].~~

(3) If the notary public's registration is disapproved, the Secretary of State will state the reasons for the disapproval.

(d) Termination of electronic registration. A notary public may terminate an electronic registration by notifying the Office of the Secretary of State of that intent, in writing at: Secretary of State, Division of Corporations, Notary Commissions, P.O. Box 821, Frankfort, Kentucky 40602 or on any electronic portal created by the Office of the Secretary of State for that purpose. Termination of a notary public's electronic registration does not terminate a notary public's commission.

(e) Renewal of commission. The renewal of the commission of a notary public who has previously registered to perform notarial acts with regard to electronic records or online notarizations under Section 1 of this administrative regulation constitutes renewal of the notary public's registration without the necessity of submitting another registration under this administrative regulation.

(f) Updated technology. Nothing herein shall be construed to prohibit a notary public from receiving, installing, or using a hardware or software update to the technologies that the notary

public identified under Section 2 of this administrative regulation if the hardware or software update does not result in technologies that are materially different from the technologies that the notary public identified.

Section 4. Standards for the Performance of Notarial Acts with Respect to Electronic Records~~[notarization of electronic documents]~~.

(a) Tamper-evident technology requirements. A notary public must select one or more tamper-evident technologies to perform notarizations with regard to electronic records. No person may require a notary public to use a technology that the notary public has not selected. The tamper-evident technology must consist of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology. A notary public must attach or logically associate the notary public's electronic signature and official stamp, if any, to an electronic record that is the subject of a notarial act by use of the digital certificate. A notary public may not perform an electronic notarization if the digital certificate:

- (1) Has expired;
 - (2) Has been revoked or terminated by the issuing or registering authority;
 - (3) Is invalid; or
 - (4) Is incapable of authentication.
- (b) Requirements of official stamp.

(1) A notary public is not required to use an official stamp when performing notarial acts with respect to electronic records.

(2) A notary public who uses an official stamp must use the same unique official stamp for all notarial acts with respect to electronic records that are performed for an individual that is not remotely located. An official stamp under this section is an official seal of office of the notary public for all purposes. An official stamp must conform to the following requirements:

(i) Required information. An official stamp shall substantially conform to the following design: a rectangular or circular seal with the notary public's name as it appears on the commission, the words "Commonwealth of Kentucky" and "Notary Public", the notary public's commission number, and the commission expiration date.

(ii) Format and size. When affixed to an electronic record, an official stamp must be clear, legible, and photographically reproducible. An official stamp is not required to be within a minimum or maximum size when photographically reproduced on an electronic record.

(3) If a notary public elects not to use an official stamp when performing notarial acts with respect to electronic records, the certificate of the notarial act on the electronic record must:

- (i) Contain the name of the notary public as it appears on the notary public's commission;
- (ii) Indicate the title "Notary Public" for any notarial act with respect to electronic records; and
- (iii) Indicate the notary public's commission number and the commission expiration date.

(c) Use of electronic signature and stamping device. A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. A notary public shall take reasonable steps to maintain the security of the notary signature and stamping device and shall not disclose any access information used to affix the notary public's electronic signature or official stamp to electronic records, except:

- (1) When requested by the Secretary of State or a law enforcement officer;
- (2) When required by court order or subpoena; or
- (3) Pursuant to an agreement to facilitate notarial acts with a vendor or other technology provider identified in 30 KAR 8:005, Section 5(g).

(d) Protection against theft, alteration or misuse.

(1) A notary public may not allow any other individual to alter or use his or her electronic signature, notary technology, official stamp or stamping device to perform a notarial act.

(2) Upon resignation, revocation, or expiration of the notary's

commission, the notary public's notary technology and electronic stamping device (including any coding, disk, digital certificate, card, software, or password that enables the notary public to attach or logically associate the notary's electronic signature or official stamp to an electronic record) must be destroyed or disabled to prohibit its use by any other person. A former notary public whose commission terminated for a reason other than revocation or denial of renewal is not required to destroy the notary public's notary technology or electronic stamping device if the former notary public is recommissioned as a notary public within thirty days after the termination of the notary public's former commission.

(3) A notary public shall promptly notify the Secretary of State on actual knowledge of the theft or vandalism of the notary public's notary technology or electronic stamping device. A notary public shall promptly notify the Secretary of State on actual knowledge of the unauthorized use by another person of the notary public's electronic signature, notary technology or electronic stamping device.

(e) Tangible copies of an electronic record. A notary public may certify that a tangible copy of an electronic record is an accurate copy of the electronic record if the notary has taken reasonable steps to confirm the accuracy of that certification.

Section 5. Standards for Electronic Notarizations ~~[online notarial acts]~~.

(a) Notarial acts with respect to electronic records. In performing electronic notarizations ~~[online notarial acts with respect to electronic records]~~, an online notary public must comply with the registration requirements ~~[for electronic notarization as provided in 30 KAR 8:005]~~ of Section 3 and the standards for notarial acts with respect to electronic records in Section 4 of this administrative regulation.

~~(b) [Requirements of official stamp.~~

~~(1) A notary public is not required to use an official stamp when performing online notarizations.~~

~~(2) A notary public who uses an official stamp must use the same unique official stamp for all notarizations involving online notarial acts. An official stamp under this section is an official seal of office of the notary public for all purposes. An official stamp must conform to the following requirements:~~

~~(i) Required information. An official stamp shall substantially conform to the following design: a rectangular or circular seal with the notary public's name as it appears on the commission, the words "Commonwealth of Kentucky" and "Notary Public", the notary public's commission number, and the commission expiration date.~~

~~(ii) Online notarial acts.] If used for electronic notarizations, an online notary public may use [uses an official stamp to perform online notarial acts,] an [the] official stamp that [must] contains the words "Online Notary Public" in lieu of the words "Notary Public." A stamp that contains the words "Online Notary Public" may only be used to perform notarizations with regard to remotely located individuals. [~~

~~(iii) Format and size. When affixed to an electronic record, an official stamp must be clear, legible, and photographically reproducible. An official stamp is not required to be within a minimum or maximum size when photographically reproduced on an electronic record.~~

~~(3) If a notary public elects not to use an official stamp when performing online notarial acts the certificate must:~~

- ~~(i) Contain the name of the notary public as it appears on the notary public's commission;~~
- ~~(ii) Indicate the title "Online Notary Public" for any notarial act with respect to a remotely located individual; and~~
- ~~(iii) Indicate the notary public's commission number and the commission expiration date.]~~

(c) Physical location. An online notary public shall be physically located in this Commonwealth at the time of the performance of the online notarization.

(d) Identity proofing. An online notary public shall have satisfactory evidence of the identity of a remotely located individual if the online notary public has personal knowledge of the identity of the individual. If an online notary public does

not have personal knowledge ~~[or satisfactory evidence]~~ of the identity of a remotely located individual ~~[as defined in Section 5]~~, the online notary public must reasonably verify the individual's identity through at least two different types of identity proofing processes or services. Those processes shall include remote presentation of an appropriate government-issued identification card that contains the signature and photograph of [by] the remotely located individual, credential analysis of that government-issued identification card [credential] by a service or process that analyzes the person's identity credential, binds the individual's identity to the individual following a successful dynamic knowledge-based authentication assessment, and permits the notary to visually compare the identity credential and the individual. The analysis of the government-issued identification card [identity credential] and the dynamic knowledge-based authentication assessment shall conform to the following requirements:

(1) Credential analysis. The analysis of a government-issued identification card [an identity credential] must use public or private data sources to confirm the validity of the identity ~~[credential]~~ that is the subject of remote presentation by a remotely located individual and shall, at a minimum:

- (i) Use automated software processes to aid the online notary public in verifying the identity of each remotely located individual;
- (ii) Require that the identity credential passes an authenticity test, consistent with sound commercial practices that use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identity credential is not fraudulent or inappropriately modified;
- (iii) Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identity credential details; and
- (iv) Enable the online notary public to visually compare for consistency the information and photograph on the identity credential and the remotely located individual as viewed by the online notary public in real time through communication technology.

(2) Dynamic knowledge-based authentication. A dynamic knowledge-based authentication assessment is successful if it meets the following requirements:

- (i) The remotely located individual must answer a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;
- (ii) Each question must have a minimum of five possible answer choices;
- (iii) At least 80% of the questions must be answered correctly;
- (iv) All questions must be answered within two minutes;
- (v) If the remotely located individual fails the first attempt, the individual may attempt the authentication assessment one additional time within twenty-four (24) hours;
- (vi) During the second authentication assessment, a minimum of forty (40) percent of the prior questions must be replaced;
- (vii) If the remotely located individual fails the second authentication assessment, the individual is not allowed to attempt identity authentication with the same online notary public within twenty-four (24) hours of the second failed authentication assessment; and
- (viii) The online notary public must not be able to see or record the questions or answers. [

~~(e) Other methods of identity verification. An online notary public has satisfactory evidence of the identity of a remotely located individual if the online notary public has personal knowledge of the identity of the individual, or if the individual is identified by oath or affirmation of a credible witness, or if the online notary has reasonably verified the identity of the individual by use of a valid public key certificate, with the following requirements:~~

~~(1) Personal knowledge. An online notary public has personal knowledge of the identity of the individual appearing before the online notary public if the individual is personally known to the online notary public through dealings sufficient to provide reasonable certainty that the individual has the~~

~~identity claimed.~~

~~(2) Credible witness. To be a credible witness, an individual must have personal knowledge of the remotely located individual who has made a statement in or executed a signature on the record that is the subject of the online notarization. If the credible witness is a remotely located individual, then the online notary public must reasonably verify the credible witness's identity under Section 3 of this administrative regulation or have personal knowledge of the credible witness under subsection 1 of this section. A credible witness may be a remotely located individual if the online notary public, credible witness, and individual whose statement or signature is the subject of the online notarization can communicate by using communication technology.]~~

(3) Public key certificate.

(i) The identity of the individual appearing before the online notary public may be verified by use of a valid public key certificate that meets the requirements of a digital certificate, as that term is defined in 30 KAR 8:005 Section 1; complies with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology; and is issued by a technology provider or digital certificate service registered with the Secretary of State pursuant to ~~[Section 7 of]~~ this regulation.

(ii) A public key certificate is not valid for identity verification if the public key certificate has expired, has been revoked or terminated by the issuing or registering authority, is invalid, or is incapable of authentication.

(f) Requirements for communication technology. The communication technology used by an online notary public in the performance of online notarizations must conform to the following requirements:

(1) Audio-video feeds. Communication technology must provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the online notary public and remotely located individual to see and speak with each other. The process must provide a means for the online notary public reasonably to confirm that a record before the online notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(2) Security measures. Communication technology must provide reasonable security measures to prevent unauthorized access to:

- (i) The live transmission of the audio-visual feeds;
- (ii) The methods used to perform the identify verification process under Sections 3 or 4 of this administrative regulation, as applicable; and
- (iii) The record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(3) Work flow. If a remotely located individual must exit the workflow, the individual must restart the identify verification process under Sections 3 or 4 of this administrative regulation, as applicable, from the beginning.

(4) Recording. All notarial acts performed using communication technology must be electronically recorded. The recording shall contain a recitation that the notary has informed the individuals participating in the notarial act that it will be electronically recorded.

(g) Notary technology provider registration.

(1) A provider of technology used in the process of electronic or online notarization must register with Secretary of State in the manner directed by the Secretary of State and provide the following information:

- (i) The legal name of the technology provider;
- (ii) The mailing address of the technology provider;
- (iii) The physical address of the technology provider;
- (iv) A designated contact person for that provider;
- (v) The phone number, physical address, and email address of the contact person;
- (vi) The name of the technology provided;
- (vii) The name of the provider or providers of the knowledge-based authentication, credential analysis, or digital certificate services, if different from the technology provider;

(viii) A description of the technology used and the manner in which it complies with KRS Chapter 423 and this chapter;

(ix) The process by which the technology provider verifies the identity of the notary public or digital certificate holder using the technology;

(x) A plan for the retention and disposition of records created, generated or retained in conjunction with the use of the technology, including, but not limited to, any electronic journal, recordings or records created or retained during an electronic or online notarization, in the event the technology provider no longer engages in the business of providing electronic or online notary technology; and

(xi) An authorized certification that the technology provided complies with KRS Chapter 423 and this chapter.

(2) A registration in compliance with this section is non-transferable and may not be conveyed to any other notary technology provider.

(h) Complaint Against a Notary Technology Provider.

(1) A written complaint may be made against a notary technology provider registered with the Office of the Secretary of State. A complaint that does not comply with the requirements of this section will not be filed, responded to, or acted upon by the Secretary of State.

(2) The Office of the Secretary of State may commence an investigation of a registered notary technology provider as a result of a complaint or upon its own initiative.

(3) An investigation under this section may include:

(i) An initial request for information from the accused provider;

(ii) A copy of the complaint forwarded to the registration provider; and

(iii) A request for supporting documentation and other sources of information.

(4) A provider shall provide true, accurate, and complete copies of all information requested by the Office of the Secretary of State.

(5) Failure of a provider to comply with an investigation directive may result in revocation of the provider's registration.

(6) A finding that the provider has failed to comply with the provisions of KRS Chapter 423 or this chapter may result in revocation of the provider's registration.

(i) Duties of Notary Technology Provider. A notary technology provider must:

(1) Respond to a request for information from the Office of the Secretary of State within the time directed. Any request for information will be sent to the addresses provided upon registration;

(2) Take reasonable steps to ensure that a notary public or digital certificate holder is able to use the technology provided in accordance with this chapter; and

(3) Suspend the use of any technology for any notary or digital certificate holder whose commission, registration, or digital certificate has expired, been revoked or been suspended.

Section 6. ~~[Electronic and Online]~~ Record Retention Requirements for Notarial Acts with Respect to Electronic Records and Electronic Notarizations.

(a) Record retention.

(1) A notary public that is registered to perform notarial acts with respect to electronic records or electronic notarizations ~~[notarial acts involving remotely located individuals using communication technology]~~ must maintain one or more journals in a permanent, tamper-evident electronic format to chronicle those notarizations.

(2) A journal entry shall be made contemporaneously with the performance of the notarial act and contain:

(i) The date and time of the notarial act;

(ii) A brief description of the record, if any and the type of notarial act;

(iii) The full name and address of each individual for whom a notarial act is performed;

(iv) A statement of how identification was established and a description of any identification credential presented including the type of credential and dates of issuance and expiration of the

credential;

(v) The fee charged, if any; and

(vi) For a notarial act involving remotely located individuals using communication technology, an audio-visual recording (or a link thereto) of the performance of the notarial act that complies with KRS Chapter 423 and this chapter.

(3) A journal must be created and stored in a computer or other electronic storage device or process that protects the electronic journal and any audio-visual recording against unauthorized access by password or cryptographic process. A recording must be created in an industry-standard audio-visual file format and must not include images of any record in which a remotely located individual made a statement or on which the remotely located individual executed a signature.

(4) An electronic journal must be retained for at least ten (10) years after the last notarial act chronicled in the journal. An audio-visual recording must be retained for at least ten (10) years after the recording is made.

(5) A journal entry shall not record an identification numbers assigned to an individual by a governmental agency or any biometric identifier.

(6) A notary public must take reasonable steps to ensure that a backup of the journal and audio-visual recording exists and is secure from unauthorized use.

(7) On the death or adjudication of incompetency of a current or former notary public that is registered to perform notarial acts with respect to electronic records or notarial acts involving remotely located individuals, the online notary public's personal representative or guardian or any other person knowingly in possession of a journal or audio-visual recording must:

(i) Comply with the retention requirements of this subsection;

(ii) Transmit the journal and recording to one or more repositories under Section 2 of this administrative regulation; or

(iii) Transmit the journal and recording in an industry-standard readable data storage device to his/her notary technology provider.

(b) Repositories. A notary public that is registered to perform notarial acts with respect to electronic records or electronic notarizations ~~[notarial acts involving remotely located individuals]~~, a guardian, conservator, or agent of such a notary public, or a personal representative of such a deceased online notary public may, by written contract, engage a third person to act as a repository to provide the storage required by Section 1 of this administrative regulation. A third person under contract under this section shall be deemed a repository or custodian under KRS 423.380(8) or KRS 423.455(5), as applicable. The contract shall:

(1) Enable the registered notary public, the guardian, conservator, or agent of the registered notary public, or the personal representative of the deceased registered notary public to comply with the retention requirements of Section 1 of this administrative regulation even if the contract is terminated; or

(2) Provide that the information will be transferred to the registered notary public, the guardian, conservator, or agent of the registered notary public, or the personal representative of the deceased registered notary public if the contract is terminated.

(c) Lost, Stolen or Improperly Accessed Journal.

(1) A notary public is responsible for the security of the notary public's journal and may not allow another individual to use the journal to perform a notarial act. A notary public shall take reasonable steps to maintain the security of the journal and shall not allow access to the notary public's journal, except:

(i) When requested by the Secretary of State or a law enforcement officer;

(ii) When required by court order or subpoena; or

(iii) Pursuant to an agreement to facilitate notarial acts with a vendor or other technology provider identified in 30 KAR 8:005, Section 5.

(2) A notary public shall promptly notify the Secretary of State of a lost or stolen journal upon discovering the journal is lost or stolen.

(d) Disposition of Notarial Records upon Termination of Commission or Registration. Upon the revocation, resignation, termination or suspension of the commission of the notary public or the revocation, resignation, termination or suspension of the

registration of the notary public to perform notarial acts with respect to electronic records and notarial acts involving remotely located individuals using communication technology, the notary public shall retain the journal in accordance with the provisions of Section 1 of this regulation.

Section 7. Prior Notice to the Secretary of State and Standards for the Use of Communication Technology in the Performance of Notarial Acts with Respect to Tangible Records. (1) A notary public shall, prior to the initial use of communication technology in the performance of notarial acts with respect to tangible records, notify the Office of the Secretary of State in writing by email or regular U.S. mail. The notice shall identify the communication technology the notary public has selected that is capable of creating an audio-visual recording of the performance of the notarial act. The Office of the Secretary of State shall make an entry of the information provided in the notice.

(2) In using communication technology in the performance of notarial acts with respect to tangible records, a notary public shall have satisfactory evidence of the identity of a remotely located individual if:

(a) the notary public has personal knowledge of the identity of the remotely located individual,

(b) the remotely located individual is identified by oath or affirmation of a credible witness appearing in person or by means of communication technology before the notary public, or

(c) if the notary public is reasonably able to identify the remotely located individual by at least two (2) different types of identity-proofing processes or services as provided in Section 5(d) of this administrative regulation.

(3) A notary public who performs notarial act with respect to tangible records shall create and maintain for a period of not less than ten (10) years, an audio-visual recording of the performance of the notarial act.

(4) A certificate executed by a notary public for the performance of a notarial act using communication technology with respect to tangible records shall contain the statement, "This notarial act involved the use of communication technology." [Notary Discipline.

(a) Prohibited Conduct. Failure to comply with a provision of KRS 423.395 may result in the denial, refusal to renew, revocation, suspension or conditioning of a notary commission and may result in disciplinary action.

(b) Conviction, Finding or Admission. Denial, refusal to renew, revocation, suspension or conditioning of a notary commission shall result upon notification to the Secretary of State of:

(1) A conviction of felony or crime involving fraud, dishonesty or deceit;

(2) A finding against, or admission of liability by, the notary public in any legal proceeding or disciplinary action alleging fraud, dishonesty or deceit by the notary; or

(3) A judicial determination of liability in a suit for fraud, misrepresentation or for failure to discharge the duties of a notary public.

(c) A notary public shall promptly notify the Secretary of State, in writing, of a conviction, finding, admission of liability, or judicial determination of liability as defined in this section.

(d) Complaint Against a Notary Public. A person that knows of a violation of Section 1 or 2 may file a complaint against a notary public with the Secretary of State. A complaint shall be in writing, dated, and signed by the person making the complaint. A complaint that does not comply with the requirements of this section will not be filed, responded to or acted upon by the Secretary of State.

(e) Any condition, restriction, suspension or revocation of a notary commission will automatically have the same effect on the electronic or online registration the notary public holds.

Section 8. Notary Discipline.

(1) Failure to comply with the provisions of KRS 423.395 or this administrative regulation may result in the denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission but shall not invalidate a notarial act performed by a notary public.

(2) Denial, refusal to renew, revocation, suspension, or conditioning of a notary commission shall result upon notification to the Secretary of State of:

(a) A conviction of a felony or a crime involving fraud, dishonesty, or deceit;

(b) A finding against, or admission of liability by, the notary public in any legal proceeding or disciplinary action alleging fraud, dishonesty, or deceit by the notary; or

(c) judicial determination of liability in a suit for fraud, misrepresentation, or failure to discharge the duties of a notary public.

(3) A notary public shall promptly notify the Secretary of State, in writing, of a conviction, finding, admission of liability, or judicial determination of liability as established in this Section.

(4) A person who knows of a violation of may file a complaint against a notary public with the Secretary of State.

(5) A complaint shall be in writing, dated, and signed by the person making the complaint. A complaint that does not comply with the requirements of this subsection shall not be filed, responded to, or acted upon by the Secretary of State.

(6) Any condition, restriction, suspension, or revocation of a notary commission shall have the same effect on the electronic or online registration the notary public holds.

(7) The Secretary of State shall cause a review of any complaint filed against a notary public to determine whether the allegations in the complaint would establish a violation by a notary public, and any appropriate disciplinary action, which shall be informed by the following factors:

(a) Nature and severity of the act, violation, or crime committed;

(b) Number and variety of current violations;

(c) Evidence pertaining to the requisite honesty, credibility, truthfulness, and integrity of the notary public;

(d) Actual or potential harm to the general public, group, individual or customer;

(e) History of complaints;

(f) Prior disciplinary record or warning;

(8) The Secretary of State shall inform the notary public of any disciplinary action by mailing a notice of disciplinary action to the home address of the notary public on file. The notice shall inform the notary public of the basis for the disciplinary action and the right to a hearing. Administrative proceedings under this section shall be governed by the provisions of KRS Chapter 13B.

(9) The Secretary of State shall certify any disciplinary action to the clerk of the county in which the notary public received his or her commission.

MICHAEL G. ADAMS, Secretary of State

APPROVED BY AGENCY: May 15, 2020

FILED WITH LRC: May 15, 2020 at noon

CONTACT PERSON: Michael Wilson, Director of Business and Deputy General Counsel, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, phone (502) 782-7422, fax (502) 564-5687; email sos.secretary@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Wilson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the conditions under which notary public officers may be approved by the Office of the Secretary of State. Additionally, it establishes procedures for electronic and online notary applications.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures for

approving notary public officers and electronic and online notary publics.

(c) How this administrative regulation conforms to the content of the authorizing statutes: In order for the Office of the Secretary of State to fulfill its duties under KRS 423, this administrative regulation is necessary to establish the procedures for approving notary public applications and registrations for electronic and online notaries public.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to establish procedures for approving notary public applications and registrations for electronic and online notaries public.

(2) N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects individual notaries public and those who voluntarily apply to be electronic and online notaries public.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals identified in question (3) will have to familiarize themselves with this administrative regulation.

(b) In complying with this administrative regulation, how much will it cost each of the entities identified in question (3): Individuals identified in question (3) will incur minimal costs in order to submit an application and/or registration.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals identified in question (3) will obtain the rights of a notary public and/or electronic and online notary public.

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

(a) Initially: The application for notary public costs \$10; registration for electronic or online costs \$10.

(b) On a continuing basis: There is no cost to implement this administrative regulation at this time.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no source funding at this time since there is no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: A fee for registration as an electronic and/or remote (online) notary is established at \$10; additional funding will not be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Fees for notary public applications is unchanged; fees for registration for electronic or online notary public is \$10.

(9) TIERING: Is tiering applied? 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? This administrative regulation will impact the Office of the Secretary of State and county clerks offices.

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 Chapter 423.

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 additional fees for the Office of Secretary of State of \$10 per electronic notary registration.

(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 additional fees for the Office of Secretary of State of \$10 per electronic notary registration.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to implement this administrative regulation 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 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:

DEPARTMENT OF AGRICULTURE Office of the Consumer and Environmental Protection (Amended After Comments)

302 KAR 10:015. Egg grading and classification.

RELATES TO: KRS 260.620

STATUTORY AUTHORITY: KRS 260.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.620

requires the department to establish standards governing eggs offered for sale as graded eggs. This administrative regulation establishes the specifications for the Kentucky consumer grades for shell eggs offered for sale in Kentucky.

Section 1. Shell eggs that are offered for sale in Kentucky as graded eggs **must meet or exceed the US standards, grades and weight classes for shell eggs as listed in [shall be classified using the procedures found] in the United State Department of Agriculture Egg Grading Manual, ungraded as provided in Section 2 of this administrative regulation, or as nest run eggs that are sent directly to a processor.**

Section 2. **Ungraded [Unclassified] Eggs.** (1) All **ungraded [Unclassified]** eggs offered for sale in cartons must be plainly marked "**ungraded [Unclassified]**" on the carton with letters not less than one-fourth (1/4) inch in height.

(2) All **ungraded [unclassified]** eggs sold in bulk shall be plainly marked "**ungraded [unclassified]**" on a placard with letters not less than one-half (1/2) inch, in height.

(3) **Eggs that are offered for sale in Kentucky [Unclassified eggs]** shall not consist of eggs unfit for human food in whole or in part, added or moldy, containing black rot, white rot, or blood ring, adherent yolks, bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance.

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

(a) "USDA Egg Grading Manual" **July 2000 [July 2019];**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Egg Marketing Program, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RYAN F. QUARLES, Commissioner of Agriculture

APPROVED BY AGENCY: May 14, 2020

FILED WITH LRC: May 15, 2020 at 9 a.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Clint Quarles, Staff Attorney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes egg grading and classification standards by incorporating a USDA standard.

(b) The necessity of this administrative regulation: This regulation establishes egg grading and classification standards by incorporating a USDA standard.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 260 commands the KDA to establish administrative regulations for an egg marketing program, his regulation establishes egg grading and classification standards by incorporating a USDA standard.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by making grading and classification clear for egg marketing in Kentucky.

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

(a) How the amendment will change this existing administrative regulation: This amendment clarifies directives in the original filing.

(b) The necessity of the amendment to this administrative regulation: This amendment clarifies directives in the original filing, that industry found necessary for a clear reading.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment clarifies directives in the original filing, but stays within the framework of the statutes.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by making grading and classification clear for egg marketing in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Agriculture, and egg sellers in the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities will be required to follow the instructions in the filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Likely no modification of current actions would be needed whatsoever, so little to no costs would be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease on behalf of the KDA and clear guidance for entities.

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

(a) Initially: No costs are associated with this filing.

(b) On a continuing basis: No costs are associated with this filing.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees generated by participants established in statute.

(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 costs are associated with this filing.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No costs are associated with this filing.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 260.540-.650

(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 income will be generated by this filing.

(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 income will be generated by this filing.

(c) How much will it cost to administer this program for the first year? 2019 program costs were \$265,000 for staff for the egg program.

(d) How much will it cost to administer this program for subsequent years? The KDA expects this spending trendline to continue for the egg program as a whole.

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

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation:

DEPARTMENT OF AGRICULTURE
Office of the State Veterinarian
(Amended After Comments)

302 KAR 22:050. Stockyards.

RELATES TO: KRS Chapter 257, 261

STATUTORY AUTHORITY: KRS 257.020, 257.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 257.020(3) requires the Board of Agriculture to prevent, control, and eradicate any communicable disease of livestock. KRS 257.030(4) authorizes the board to promulgate administrative regulations necessary to administer any provision of KRS Chapter 257. This administrative regulation establishes operational procedures for all stockyards relative to disease control.

Section 1. General Requirements.

(1) All stockyards shall apply annually, on or before July 1st, to the Office of the State Veterinarian (OSV) for a license to operate in accordance with KRS 261, by submitting the form Application for Kentucky Stockyard Approval.

(2) All stockyards shall be maintained in a workable and acceptable sanitary condition. Stockyards shall be inspected as required by the OSV.

(3) After an occurrence of any infectious, contagious, parasitic, or communicable disease of livestock in a stockyard, exposed facilities capable of transmitting disease shall be cleaned and disinfected according to 9 C.F.R. 71.10, 71.11, and 71.12, and at the direction and under the supervision of the OSV.

(4) Livestock found to be infected and showing clinical or diagnostic symptoms of an infectious, contagious, parasitic, or communicable disease shall, upon recommendation of the market veterinarian or representative of the OSV, be quarantined in an isolated portion of the yards for treatment, additional diagnostic

laboratory procedures, disposition to slaughter, or other disposition pursuant to accepted methods of disease prevention and control.

(5) All livestock originating from a quarantined herd or premises shall be sold only with specific written approval from the OSV, for immediate slaughter.

(6) A bill of sale or other document showing number of livestock, purchaser, and **physical description [identifiers required]** shall be given to the purchaser. **The purchaser shall be responsible for providing any necessary documentation required for movement to [and] the entity hauling livestock away from the facility.**

(7) It is the responsibility of the seller stockyard to document and identify livestock **prior to the sale [exiting the facility]** as if they are moving under 9 C.F.R. 86. This shall include official identification **[for all dairy cattle of any age, and]** all sexually intact cattle over eighteen (18) months of age, **and dairy heifers. Sellers may elect to have the stockyards perform these requirements at the expense of the seller.**

(8) Stockyards shall submit to the OSV a Stockyards Multipurpose Form within seven (7) calendar days of a sale. Beginning January 1, 2021 the Multipurpose form or the contents therein shall be submitted to the OSV electronically as an excel or other importable format.

(9) The person operating a stockyard shall provide separate pens for isolating animals classed as reactors to brucellosis or any contagious, infectious, or communicable disease. The pens shall be permanently identified as isolation or quarantine pens and these words shall be spelled out on the pen gates. The pens shall be constructed so as to facilitate easy cleaning and disinfecting after each use. The pens shall have concrete floors and complete walls with no fences or gates to permit contact with adjacent animals. Any watering troughs or feed bunks in the isolation or quarantine pens shall be located so that no other livestock in the market can access them at any time. All diseased animals shall be yarded in the isolation or quarantine pens and shall be sold last. The animals shall be identified as reactors or diseased animals on the invoices of both the buyer and the seller. The isolation or quarantine pens shall not be used at any time except for known or suspected contagious, infectious, or communicable disease reactors, or diseased animals. Livestock from these pens shall move directly to a recognized slaughter establishment, or to any place that is requested and authorized by the OSV in writing. **Isolation [Temporary bays, isolation,]** or quarantine pens may be used if necessary and if prior approval for the use of the pens has been obtained from an agent of the OSV. Temporary pens shall be identified as isolation or quarantine pens as provided in this section.

(10) The owner operating a stockyard shall provide adequate space, utilities, hot water and assistance for the market veterinarian to carry out the provisions of this administrative regulation. All licensed Kentucky livestock markets shall provide the following requirements for the market's official market veterinarian. This space shall:

(a) Be constructed and equipped so as to be maintained at room temperature (normal working temperature) in both summer and winter (i.e., heaters and air conditioners);

(b) Contain a sink with hot and cold running water;

(c) Be equipped with a refrigerator in good working condition;

(d) Be constructed so that the market veterinarian shall have sufficient space and privacy to conduct the required tests and fill out the associated records and forms;

(e) Be constructed so that it can be kept clean easily and locked at all times if not in use;

(f) Contain a work counter and sufficient shelf space, cabinets with locks, and storage space to keep forms, ear tags, and other supplies as required by the official market veterinarian in carrying out his or her duties;

(g) Be supplied with adequate artificial light. The electrical wiring shall be adequate to carry at a minimum a centrifuge, electrical refrigerator, and cooling facility and have at least two (2) additional electrical outlets; and

(h) Be located so as to be convenient for the veterinarian and the public while conducting his or her duties as the official market

veterinarian.

(9) The owner or operator shall furnish and maintain one (1) or more cattle chutes suitable for restraining animals for inspection of any infectious, contagious, or parasitic condition, testing, tagging, branding, and other procedures routinely required in providing livestock sanitary services and identification for movement at stockyards.

Section 2. A stockyard shall employ a Market Veterinarian. (1) The owner or manager operating a stockyard shall arrange for an USDA accredited, Kentucky licensed veterinarian, approved by the State Veterinarian, to be available to carry out the provisions of this administrative regulation.

(a) A veterinarian seeking to be designated as an official market veterinarian shall make complete a form Responsibilities of the Market Veterinarian.

(b) The official market veterinarian shall be responsible to replace himself with another veterinarian, approved by the State Veterinarian, if he or she finds it necessary to be absent from the market.

(c) The failure or neglect to properly perform any of the responsibilities and duties of the official market veterinarian shall be cause for termination.

(d) The stockyard shall not conduct a sale without an approved official market veterinarian.

Section 3. Veterinary Compensation. The fees shall be deducted from the seller's check or added to the buyer's check, depending upon conditions of sale, and shall be paid to the market veterinarian. Any deductions shall be printed on the sales documents.

Section 4. Veterinary Duties. The market veterinarian shall perform the following described duties in cooperation with representatives of the department. The market veterinarian shall:

(1) Be available to inspect livestock to clarify the health status of the animals and to qualify the animals for interstate movement;

(2) Collect blood and tissue samples and submit samples to a state-federal approved laboratory to qualify animals for movement as required;

(3) Visually inspection of livestock for clinical signs of a contagious, infectious, or communicable disease prior to the sale;

(4) Report the presence of any animal showing symptoms suggestive of a reportable disease or any other disease that may cause animals to become infected or exposed to a communicable livestock disease;

(5) Forward copies of all forms to the Office of the State Veterinarian. All official forms, certificates, or documents shall be dated and signed by the agent of the market. An official document shall not be presigned by any veterinarian under any circumstance.

(6) Prevent the transmission of infectious agents to livestock.

(7) Shall not resign market duties without written notice to the sale company and the State Veterinarian's office at least ten (10) days prior to resignation.

Section 5. Records Required. The owner or operator shall maintain records of the seller and purchasers of all livestock for at least five (5) years. **[Additionally, the stockyard shall copy and maintain all movement, Certificate of Veterinary Inspection (CVI), Owner-Shipper Statement (OSS) or Official Identification (OID) materials that pertained to any sale or transaction, including animals that were returned to the consignor.]** These records shall be made available to OSV representatives for inspection upon request during regular business hours. [

Section 6. Cattle and Bison General requirements.

(1) Cattle and bison may only enter the premises of the stockyard with a valid CVI or an Owner-Shipper Statement.

(2) The stockyard shall scan or otherwise record the CVI or OSS at the time of unloading and prior to the sale.

(3) All sexually intact cattle or bison eighteen (18) months of age or older leaving the stockyards, regardless of change of ownership, and all dairy animals regardless of age shall

have official identification.

~~(4) Any cattle or bison not receiving OJD by owner designation as feeders shall be subject to an on farm inspection by the OSV.]~~

Section ~~6~~**7**. Swine Requirements. A qualifying stockyard must select designation as either an all class swine market, or a slaughter only market at the time of application.

(1) All class swine stockyards shall:

(a) Maintain well-constructed pens and swine handling facilities that are clean and in good repair;

(b) Provide pens surfaced with impervious material for holding and handling all swine;

(c) Provide satisfactory, well-lighted facilities for inspection and proper restraint;

(d) Handling and holding pens and alleys shall be cleaned and disinfected after being used by each lot of swine.

(e) Procedures for cleaning and disinfecting shall be performed according to 9 C.F.R. 71.10, 71.11, and 71.12.

(f) Maintain records of origin and the buyer [destination] for all swine entering market and grant federal and state inspectors access to the records. Identification as to farm where farrowed shall be maintained for all feeder pigs and breeding stock and all slaughter swine which may be diverted for purposes other than slaughter. Records shall be maintained for five (5) years.

(g) Place feeding and breeding swine in pens separate and apart from slaughter swine.

(h) All swine designated for slaughter shall be delivered directly to an approved slaughter establishment with no diversion en route. The stockyard shall record the name and information of the slaughter facility destination.

(i) All swine exiting the stockyard shall require official identification as required in 9 C.F.R. 71.19. **The stockyard shall record the owner and premises of destination information.**

(j) Not permit feeder pigs or breeding swine to remain in the market more than seventy-two (72) hours.

(2) Slaughter swine stockyards

(a) Swine moving interstate to the stockyard shall be identified in accordance with 9 C.F.R. Part 71.

(b) Slaughter swine stockyards shall maintain well-constructed pens and swine handling facilities that are clean and in good repair;

(c) Maintain records of origin and destination for all swine entering market and grant federal and state inspectors access to the records. Records shall be maintained one (5) year;

(d) Isolate all swine suspected of being affected with or exposed to an infectious disease, promptly notify the state or federal agency, and hold the swine in isolation pending instructions on disposition; and

(e) Clean and disinfect holding and handling pens, alleys, and other facilities used in selling swine according to 9 C.F.R. 71.10, 71.11, and 71.12.

(f) Swine entering onto the stockyards premises shall be only for slaughter, and swine shall not be permitted to leave the stockyard premises for any purpose other than slaughter.

(g) All swine shall be delivered directly to an approved slaughter establishment with no diversion en route, except for swine designated as farm slaughter. The stockyard shall record the name and information of the slaughter facility destination.

(h) The number of swine purchased for farm slaughter for family consumption only shall not exceed six (6) head of animals per premises within twelve (12) months.

(i) Farm slaughter swine shall not be commingled with other swine on the purchaser's premises.

(j) The purchaser of farm slaughter swine shall document slaughter of animals within seven (7) days of purchase. This record shall be made available to the OSV upon request.

(k) All swine exiting the stockyard shall require official identification as required in 9 C.F.R. 71.19. The stockyard shall record the owner and premises of destination information.

Section ~~7~~**8**. Sheep and Goat Requirements.

(1) All sheep and goats shall be required to be tagged with an

Official Scrapie Tag prior to unloading into [arrival at] the stockyards facility. [

(2) No official scrapie tags shall be affixed at the stockyard facility by any person, including the market veterinarian.]

~~(2) [(3)]~~ All sheep or goats that are that show evidence of an infectious, contagious, communicable, or parasitic disease shall be moved only with permission of the OSV.

Section ~~8~~**9**. Horse Requirements.

(1) All equine presented shall require a valid CVI and a negative Equine infectious anemia test prior to entering the stockyards premises, unless the market is an Approved Kentucky Horse Sale as defined in 302 KAR 22:130.

Section ~~9~~**10**. Material incorporated by reference. (1) The following material is incorporated by reference:

(a) Application for Kentucky Stockyard Approval,

(b) Stockyards Multipurpose Form, and

(c) Responsibilities Of The Market Veterinarian and

(d) Owner-Shipper Statement.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Animal Health, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RYAN F. QUARLES, Commissioner of Agriculture

APPROVED BY AGENCY: May 14, 2020

FILED WITH LRC: May 15, 2020 at 9 a.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Clint Quarles, Staff Attorney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes rules for operation of stockyards in the Commonwealth.

(b) The necessity of this administrative regulation: This regulation is necessary to prevent the transmission of communicable diseases in livestock.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 261 vests authority in the Board of Agriculture to regulate stockyards and their operation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by making rules clear for owners of stockyards and livestock what is expected for transactions in those marketplaces.

(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 addresses concerns from the stockyards industry.

(b) The necessity of the amendment to this administrative regulation: This amendment addresses concerns from the stockyards industry for clarity.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment makes alterations for clarity and is still within the statutory framework.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in effective administration by making rules clear for owners of stockyards and livestock what is expected for transactions in those marketplaces.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Agriculture, State Veterinarian, and stockyards owners and transporters of livestock. Currently 36 stockyards and buying stations are licensed in the commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities will be required to follow the individual regulatory instructions in the administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): A twenty five (25) dollar application fee is required of each stockyard.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease on behalf of the KDA and clear guidance for entities. The entities will also have security against further spread of communicable diseases.

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

(a) Initially: Approximately 2 full time staff equivalents. Costs for postage and office materials, and other calculable costs is approximately \$4,500.

(b) On a continuing basis: Approximately 2 full time staff equivalents. Costs for postage and office materials, and other calculable costs is approximately \$4,500.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The fees collected and the KDA 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: No, fees are established by statute.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No, fees are established by statute.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 261

(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? \$1,600 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? \$1,600 annually.

(c) How much will it cost to administer this program for the first year? This program will require approximately 2 full time staff equivalents. Costs for postage and office materials, and other calculable costs is approximately \$4,500.

(d) How much will it cost to administer this program for subsequent years? The KDA expect to require approximately 2 full time staff equivalents. Costs for postage and office materials, and other calculable costs is approximately \$4,500.

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

Revenues (+/-): \$1,600

Expenditures (+/-): Approximately 2 full time staff equivalents. Costs for postage and office materials, and other calculable costs

is approximately \$4,500.

Other Explanation:

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amended After Comments)

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.

(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-~~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.

(10) A horse shall only be permitted to enter if at the time of entry, the owner, trainer, or an authorized agent of the owner or trainer submits a complete medical record for such horse for the fourteen (14) day period prior to the entry date.

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 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 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 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 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 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 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~~~~[parimutuel]~~ 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 un-less:

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 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 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.

Section 17. Examination by Attending Veterinarian.

(1) Subject to the exception in paragraph (4), a [A] horse shall only be entered if:

(a) The horse has been examined by an attending veterinarian licensed by the veterinary regulatory body in the jurisdiction where the examination occurs no more than three (3) days prior to entry;

(b) The attending veterinarian certifies in writing that the horse is in serviceable, sound racing condition; and

(c) The written certification is provided to the racing secretary no later than the time of entry.

(2) The examination required by paragraph (a) of subsection (1) of this section shall include watching the horse jog in hand.

(3) If the attending veterinarian who examines the horse prescribes a diagnostic test as part of the evaluation of the horse's soundness, the results of the test shall be provided to the commission's veterinarian no later than one (1) day before the horse is set to start.

(4) If a racing secretary contacts a trainer to fill an extra race, the trainer may enter a horse prior to obtaining the examination and written certification required in this section, provided that the certification required in this section is provided to the racing secretary:

(a) on the same day that the horse is entered, and

(b) prior to the race in which the horse is entered.

JONATHAN RABINOWITZ, Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: May 14, 2020

FILED WITH LRC: May 15, 2020 at 11 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for entries, subscriptions and declarations in thoroughbred and other flat racing. These rules provide an orderly means of determining which horses will be considered eligible to enter a race.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific requirements and methods for entries, subscriptions and declarations in thoroughbred and other flat racing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 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 prescribes the conditions relating to entries, subscriptions and declarations in thoroughbred and other flat racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth requirements and rules concerning entries, subscriptions and declarations in thoroughbred and other flat racing that enhance the integrity of racing.

(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 requires that fourteen (14) days of equine medical records be submitted at the time of entry of a horse, and requires that a horse be examined by an attending veterinarian, who must certify that the horse is in sound racing condition before entry.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to add a records-submission requirements that will assist the commission in evaluating horses for soundness prior to a race and to add a requirement that the horse's attending veterinarian certify the horse's soundness, which will help ensure that horses will race safely.

(c) How the amendment conforms to the content of the authorizing statutes: 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 amendment prescribes additional conditions relating to entries, subscriptions and declarations in thoroughbred and other flat racing.

(d) How the amendment will assist in the effective administration of the statutes: This amendment sets forth requirements and rules concerning entries, subscriptions and declarations in thoroughbred and other flat racing that enhance the integrity and safety of racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's five (5) licensed thoroughbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Participants in horse racing, and especially owners, trainers, and veterinarians, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to entries, subscriptions and declarations in thoroughbred and other flat racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No

significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity and safety of racing.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing 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 significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the Commission.

(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 are funding are 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 new fees or increase any current fees to participate.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering was not applied because this administrative regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

(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 for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this regulation 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

PROPOSED AMENDMENTS

**Council on Postsecondary Education
(Amendment)**

13 KAR 1:050. Licensed out-of-state college's eligibility for Kentucky tuition grant.

RELATES TO: KRS 164.020(37), 164.785, 164.945, 164.946, 164.947, 164.992

STATUTORY AUTHORITY: KRS 164.785(7)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.785(7)(c) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement the requirement that, beginning with the 2011-2012 academic year, programs or campuses of any out-of-state postsecondary education college that is licensed by the Council on Postsecondary Education to operate in Kentucky and whose institutional programs are not composed solely of sectarian instruction, but in which accreditation by the Southern Association of Colleges and Schools is not an option, be reviewed and approved by the Council on Postsecondary Education based on accreditation criteria that mirrors Southern Association of Colleges and Schools accreditation criteria in order to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant.

Section 1. Definitions. (1) "Accredited" means the approval of an accrediting agency.

(2) "Accrediting agency" means a national or regional agency which evaluates colleges and is recognized by the United States Department of Education, the Council on Higher Education Accreditation, or the Council on Postsecondary Education.

(3) "Agent" means any person employed by a college to act as a solicitor, broker, or independent contractor to procure students for the college by solicitation in any form made at any place other than the main campus of the college.

(4) "College" is defined by KRS 164.945(1).

(5) "Degree" is defined by KRS 164.945(2).

(6) "Diploma" is defined by KRS 164.946(3).

(7) "Out-of-state college" means a college that is chartered, organized, or has its principal location outside of Kentucky.

(8) "President" means the president of the Council on Postsecondary Education.

(9) "Regional accrediting association" is defined by KRS 164.740(18).

Section 2. General Requirements. (1) If an out-of-state college licensed by the Council on Postsecondary Education is seeking to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant, and if accreditation by the Southern Association of Colleges and Schools is not an option for the college, the college shall apply with the Council on Postsecondary Education.

(2)(a) Approval by the Council on Postsecondary Education shall be for the sole purpose of qualifying a Kentucky campus or campuses of a college as an eligible institution in which a Kentucky student may enroll and receive a Kentucky tuition grant, and shall not mean that the college is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, the Council on Postsecondary Education, or any other agency.

(b) A college shall not represent its status as seeking or being accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, the Council on Postsecondary Education, or any other agency.

(3)(a) A college seeking eligibility shall submit the "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" for each licensed Kentucky program or instructional site to the president.

(b) A college seeking eligibility shall submit a complete and accurate "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" by [:

1. May 30, 2010 for those colleges seeking eligibility beginning with the 2011-2012 academic year; or

2.] May 30 of the year prior to the first academic year for which it seeks to be eligible.

(4) The college shall pay a nonrefundable fee of \$10,000 [~~\$1,000~~] to the Council on Postsecondary Education with the submission of the application. Review of the application shall not occur until the fee is paid by the college. [This fee shall be in addition to any costs associated with a site visit.]

(5) The president shall review the application and documentation submitted by the applicant college. [

(6) Site visits:

(a) ~~Within ninety (90) working days of the receipt of a full and complete "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" or notification of a substantive change, the president may conduct, or may have conducted, a site visit.~~

(b) ~~Personnel conducting a site visit shall possess the expertise appropriate to the type of college to be visited. In selecting personnel, the president shall consider the person's professional experience in higher education, experience conducting site visits at postsecondary education institutions, familiarity with current accreditation requirements of accrediting agencies including the Southern Association of Colleges and Schools, and graduate or professional degree from an accredited institution. The president shall use council staff or contract with external consultants using the state's Request for Proposal (RFP) process.~~

(c) ~~The purpose of a site visit shall be to make an assessment of a licensed Kentucky campus or campuses of a college using the standards as established in this administrative regulation.~~

(d) ~~The president may conduct, or may have conducted, an announced or unannounced site visit of a licensed college during reasonable business hours to inspect the files, facilities, and equipment as well as conduct interviews to determine the college's eligibility under this administrative regulation.~~

(e) ~~Failure to provide full access to the college's files, facilities, and equipment or prevention of interviews shall be grounds for ineligibility.~~

(f)1. ~~All costs associated with a site visit and necessary subsequent visits, including travel, meals, lodging, and consultant honoraria shall be paid by the applicant college.~~

2. ~~The estimated cost of the site visit shall be paid by the college prior to the site visit, and final settlement regarding actual expenses incurred shall be paid no later than thirty (30) days following the completion of the site visit.~~

3. ~~Failure to pay these costs shall result in ineligibility.]~~

Section 3. Integrity of College. (1) The college shall operate with integrity in all matters.

(2) The college shall be responsible for any of its agents and any individual who reports to the president on behalf of a college, either by virtue of his or her office or as delegated by the chief executive officer of the college, in all matters regarding institutional integrity.

(3) Failure to respond appropriately to the president's decisions and requests or to make complete, accurate, and honest disclosure shall be grounds for the president to impose a sanction, including ineligibility under this administrative regulation.

Section 4. Core Requirements. A college applying for approval by the Council on Postsecondary Education shall meet the standards established in this section.

(1) The college shall have a clearly defined, comprehensive, and published mission specific to the college and appropriate for higher education. The mission shall address teaching and learning, and where, applicable, research and public service.

(2) The college shall:

(a) Have degree-granting authority from its home state authorization agency;

(b) Be licensed by the Council on Postsecondary Education in accordance with 13 KAR 1:020 prior to seeking eligibility under this administrative regulation; and

(c) Be accredited by a regional accrediting association.

(3) The college shall have a governing board of at least five members that:

(a) Is the legal body with specific authority over the college;

(b) Exercises fiduciary oversight of the college;

(c) Ensures that both the presiding officer of the board and a majority of other voting members of the board are free of any contractual, employment, personal, or familial financial interest in the college;

(d) Is not controlled by a minority of board members or by organizations or colleges separate from it; and

(e) Defines and regularly evaluates its responsibilities and expectations.

(4) The college shall have a chief executive officer selected and evaluated by the college's board whose primary responsibility is to the college and has ultimate responsibility for, and exercises appropriate control over, the college's educational, administrative, and fiscal programs and services.

(5) The college shall employ and regularly evaluate administrative and academic officers with appropriate experience and qualifications to lead the college.

(6) The college shall employ an adequate number of full-time faculty members to support the mission and goals of the college.

(7) The college shall engage in ongoing, comprehensive, and integrated research-based planning and evaluation processes that:

(a) Focus on institutional quality and effectiveness; and

(b) Incorporate a systematic review of institutional goals and outcomes consistent with its mission.

(8) The college shall:

(a) Identify, evaluate, and publish goals and outcomes for student achievement appropriate to the college's mission, the nature of the students it serves, and the kinds of programs offered; and

(b) Use multiple measures to document student success.

(9) The college shall identify expected outcomes, assess the extent to which it achieves these outcomes, and provide evidence of seeking improvement based on analysis of the results in the areas below:

(a) Student learning outcomes for each of its educational programs;

(b) Student learning outcomes for collegiate-level general education competencies of its undergraduate degree programs; and

(c) Academic and student services that support student success.

(10) The college shall have educational programs that embody a coherent course of study, are compatible with the stated mission and goals of the college, and are based on fields of study appropriate to higher education.

(11) The college shall require the successful completion of a general education component at the undergraduate level that:

(a) Is based on a coherent rationale;

(b) Is a substantial component of each undergraduate degree program; and

(c) Ensures breadth of knowledge by having at least one course from each of the following areas: humanities and fine arts, social and behavioral sciences, and natural science and mathematics, and the courses do not narrowly focus on skills, techniques, and procedures specific to a particular occupation or profession.

(12) The college shall:

(a) Publish, implement, and disseminate academic policies that adhere to principles of good education practice and that accurately represent the programs and services of the college;

(b) Make available to students and the public current academic calendars, grading policies, cost of attendance, and refund policies;

(c) Ensure the availability of archived official catalogs with relevant information for course and degree requirements; and

(d) Publish and implement policies on the authority of faculty in academic and governance matters, and places primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty.

(13) The college shall:

(a) Publish admissions policies consistent with its mission;

(b) Have recruitment materials and presentations that accurately represent the practices, policies, and accreditation status of the college; and

(c) Ensure that independent contractors or agents used for recruiting purposes and for admission activities are governed by the same principles and policies as institutional employees.

(14) The institution publishes policies for evaluating, awarding, and accepting credit not originating from the institution. The institution ensures:

(a) The academic quality of any credit or coursework recorded on its transcript;

(b) An approval process with oversight by persons academically qualified to make the necessary judgments; and

(c) The credit awarded is comparable to a designated credit experience and is consistent with the institution's mission.

(15) The college shall:

(a) Provide adequate and appropriate library and learning and information resources, services, and support for its mission;

(b) Ensure an adequate number of professional and other staff with appropriate education or experiences in library or other learning or information resources to accomplish the mission of the college; and

(c) Provide student a faculty access and user privileges to its library services, and access to regular and timely instruction in the use of the library and other learning or information resources.

(16) The college shall:

(a) Provide appropriate academic and student support programs, services, and activities consistent with its mission;

(b) Publish appropriate and clear procedures for addressing written student complaints, demonstrate that it follows the procedures when resolving them, and maintains a record of student complaints; and

(c) Provide information and guidance to help student borrowers understand how to manage their debt and repay their loans.

(17) The college shall have sound financial resources and a demonstrated, stable financial base to support the mission of the college and the scope of its programs and services.

(18) The college shall provide the following financial statements:

(a) An institutional audit for the most recent fiscal year prepared by an independent certified public accountant or appropriate governmental auditing agency employing the appropriate audit guide;

(b) A statement of financial position of unrestricted net assets, exclusive plant assets and plant-related debt, which represents the change in unrestricted net assets attributable to operations for the most recent year; and

(c) An annual budget that is preceded by sound planning, is subject to sound fiscal procedures, and is approved by the governing board.

(19) The college shall:

(a) Be in compliance with its program responsibilities under Title IV of the most recent Higher Education Act as amended; and

(b) Audit financial aid programs as required by federal and state regulation.

(20) The college shall ensure adequate physical facilities and resources that appropriately serve the needs of the college's educational programs, support services, and other missions-related activities and take steps to provide a healthy, safe, and secure environment for all members of the campus community.[

Section 4. Core Requirements. A college applying for approval by the Council on Postsecondary Education shall meet the requirements established in this section.

(1) Degree-granting authority. The college shall be licensed by the Council on Postsecondary Education in accordance with 13 KAR 1:020 prior to seeking eligibility under this administrative regulation.

(2) Accreditation. The college shall be accredited by a regional accrediting agency.

(3) Governing board.

(a) The college shall have a governing board of at least five (5) members which shall be the legal body with specific authority over the college.

(b) The board shall be an active policy-making body for the college and shall ultimately be responsible for ensuring that the financial resources of the college are adequate to provide a sound educational program.

(c) Except as provided in paragraph (e) of this subsection, the board shall not be controlled by a minority of board members or by organizations or interests separate from it.

(d) Both the presiding officer of the board and a majority of other voting members of the board shall be free of any contractual, employment, or personal or familial financial interest in the college.

(e) A military college authorized and operated by the federal government to award degrees shall have a public board on which both the presiding officer and a majority of the other members are neither civilian employees of the military nor active or retired military.

1. The board shall have broad and significant influence upon the college's programs and operations, play an active role in policy-making, and ensure that the financial resources of the college are used to provide a sound educational program.

2. The board shall not be controlled by a minority of board members or by organizations or interests separate from the board except as specified by the authorizing legislation.

(4) Chief executive officer. The college shall have a chief executive officer whose primary responsibility is to the college and who is not the presiding officer of the board.

(5) Institutional mission. The college shall have a clearly defined, comprehensive, and published mission statement that is specific to the college and appropriate for higher education. The mission shall address teaching and learning and, if applicable, research and public service.

(6) Institutional effectiveness. The college shall engage in ongoing, integrated, and institution-wide research-based planning and evaluation processes that:

(a) Incorporate a systematic review of institutional mission, goals, and outcomes;

(b) Result in continuing improvement in institutional quality; and

(c) Demonstrate the college is effectively accomplishing its mission.

(7) Continuous operation. The college shall be in operation and shall have students enrolled in degree programs.

(8) Program length.

(a) The college shall offer one or more degree programs based on:

1. At least sixty (60) semester credit hours or the equivalent at the associate level;

2. At least 120 semester credit hours or the equivalent at the baccalaureate level; or

3. At least thirty (30) semester credit hours or the equivalent at the post-baccalaureate, graduate, or professional level.

(b) If a college uses a unit other than semester credit hours, the college shall provide an explanation for the equivalency.

(c) The college shall provide a justification for all degrees that include fewer than the required number of semester credit hours or its equivalent unit.

(9) Program content. The college shall offer degree programs that embody a coherent course of study that shall be compatible with its stated mission and shall be based upon fields of study appropriate to higher education.

(10) General education.

(a) In each undergraduate degree program, the college shall require the successful completion of a general education component at the collegiate level that is a substantial component of each undergraduate degree and ensures breadth of knowledge.

(b) The component shall constitute a minimum of:

1. Fifteen (15) semester hours or the equivalent for degree completion in associate programs; or

2. Thirty (30) semester hours or the equivalent for degree completion in baccalaureate programs.

(c) These credit hours shall be drawn from and include at least one (1) course from each of the following areas:

1. Humanities and fine arts;

2. Social and behavioral sciences; and

3. Natural science and mathematics.

(d) The courses shall not narrowly focus on those skills, techniques, and procedures specific to a particular occupation or profession.

(e) The college shall provide a justification if it allows for fewer than the required number of semester credit hours or its equivalent unit of general education courses.

(11) Course work for degrees.

(a) The college shall provide instruction for all course work required for at least one (1) degree program at each level at which it awards degrees.

(b) If the college does not provide instruction for all course work and makes arrangements for some instruction to be provided by other accredited colleges or entities through contracts or consortia, or uses some other alternative approach to meeting this requirement, the arrangement or alternative approach shall be approved by the president.

(c) For either subsection (10)(a) or (b) of this section, the college shall demonstrate that it controls all aspects of its educational program.

(12) Faculty.

(a) The number of full-time faculty members shall be adequate to support the mission of the college and to ensure the quality and integrity of its academic programs.

(b) Upon application for eligibility, a college shall demonstrate that it meets the required faculty qualifications pursuant to Section 4(7) of this administrative regulation.

(13) Learning resources and services.

(a) The college, through ownership or formal agreements, shall provide and support student and faculty access and user privileges to adequate library collections and services and to other learning and information resources consistent with the degrees offered.

(b) Collections, resources, and services shall be sufficient to support all its educational, research, and public service programs.

(14) Student support services. The college shall provide student support programs, services, and activities consistent with its mission that promote student learning and enhance the development of its students.

(15) Financial resources.

(a) The college shall have a sound financial base and demonstrated financial stability to support the mission of the college and the scope of its programs and services.

(b) The college shall provide the following financial statements:

1. An institutional audit;

2. Written institutional management letter for the most recent fiscal year prepared by an independent certified public accountant;

3. A statement of financial position of unrestricted net assets, exclusive of plant assets and plant-related debt, which represents the change in unrestricted net assets attributable to operations for the most recent year; and

4. An annual budget that shall be preceded by sound planning, subject to sound fiscal procedures, and approved by the governing board.

(16) Physical resources. The college shall have physical resources to support the mission of the college and the scope of its programs and services in terms of size, fireproof quality, and conditions of all existing buildings and all buildings under construction.

Section 5. Comprehensive Standards. A college applying for approval by the Council on Postsecondary Education shall meet the standards established in this section.

(1) Institutional Mission. The college's mission statement shall:

(a) Be current and comprehensive;

(b) Accurately guide the college's operations;

(c) Be periodically reviewed and updated;

(d) Be approved by the governing board; and

(e) Be communicated to the college's constituencies.

(2) Governance and administration.

(a) The governing board of the college shall be responsible for the selection and the periodic evaluation of the chief executive officer.

(b) Governing board control. The legal authority and operating control of the college shall be clearly defined for the following areas within the college's governance structure:

1. College's mission;

2. Fiscal stability of the college;

3. Collegial policy, including policies concerning related and affiliated corporate entities and all auxiliary services; and

4. Related foundations for athletics, research, or other areas and other corporate entities whose primary purpose is to support the college and its programs.

(c) Board conflict of interest. The board shall have a policy addressing conflict of interest for its members.

(d) Board dismissal. The governing board shall have a policy whereby members can be dismissed only for appropriate reasons and by a fair process.

(e) Board and administration distinction. There shall be a clear and appropriate distinction, in writing and practice, between the policy-making functions of the governing board and the responsibility of the administration and faculty to administer and implement policy.

(f) Organizational structure. The college shall have a clearly defined and published organizational structure that delineates responsibility for the administration of policies.

(g) Qualified administrative and academic officers. The college shall have qualified administrative and academic officers with the experience, competence, and capacity to lead the college.

(h) Faculty and staff appointment. The college shall define and publish policies regarding appointment and employment of faculty and staff.

(i) Administrative staff evaluations. The college shall evaluate the effectiveness of its administrators on a periodic basis.

(j) Control of Intercollegiate athletics. The college's chief executive officer shall have ultimate responsibility for, and exercise appropriate administrative and fiscal control over, the college's intercollegiate athletics program.

(k) Fundraising activities. The college's chief executive officer shall control the college's fund-raising activities exclusive of institution-related foundations that are independent and separately incorporated.

(l) Institution-related foundations.

1. Any institution-related foundation not controlled by the college shall have a contractual or other formal agreement that accurately describes the relationship between the college and the foundation, and describes any liability associated with that relationship.

2. The college shall ensure that the relationship is consistent with its mission.

(m) Intellectual property rights.

1. The college's policies shall be clear concerning ownership of materials, compensation, copyright issues, and the use of revenue derived from the creation and production of all intellectual property.

2. These policies shall apply to students, faculty, and staff.

(3) Institutional effectiveness. The college shall identify expected outcomes, assess the extent to which it achieves these outcomes, and provide evidence of improvement based on analysis of the results in each of the following areas:

(a) Educational programs, to include student learning outcomes;

(b) Administrative support services;

(c) Educational support services;

(d) Research within its educational mission, if appropriate; and

(e) Community and public service within its educational mission, if appropriate.

(4) All educational programs. For all educational programs including on-campus, offcampus, and distance learning programs and course work, the college shall meet the standards established in this subsection.

(a) Academic program approval. The college shall demonstrate that each educational program, including all on-campus, off-campus, and distance learning programs and course work, for

which academic credit is awarded, is approved by the faculty and the administration.

(b) Continuing education and service programs. The college's continuing education, outreach, and service programs shall be consistent with the college's mission.

(c) Admissions policies. The college shall publish admissions policies that are consistent with its mission.

(d) Acceptance of academic credit.

1. The college shall have a defined and published policy for evaluating, awarding, and accepting credit for transfer, experiential learning, advanced placement, and professional certificates that is consistent with its mission and ensures that course work and learning outcomes are at the collegiate level and comparable to the college's own degree programs.

2. The college shall assume responsibility for the academic quality of any course work or credit recorded on a transcript of the college.

(e) Academic policies.

1. The college shall publish academic policies that adhere to principles of good educational practice.

2. The college's academic policies shall be disseminated to students, faculty, and other interested parties through publications that accurately represent the programs and services of the college.

(f) Practices for awarding credit. The college shall employ practices for determining the amount and level of credit awarded for courses, regardless of format or mode of delivery.

(g) Consortial relationships and contractual agreements. The college shall:

1. Ensure the quality of educational programs and courses offered through consortial relationships or contractual agreements;

2. Ensure ongoing compliance with the comprehensive requirements; and

3. Evaluate the consortial relationship and agreement against the purpose of the college.

(h) Noncredit to credit. The college shall award academic credit for course work taken on a noncredit basis only if there is documentation that the noncredit course work is equivalent to a designated credit experience.

(i) Academic support services. The college shall provide academic support services for its faculty and students, including:

1. Resource centers;

2. Tutoring;

3. Academic advising;

4. Counseling;

5. Disability services;

6. Library services;

7. Laboratories;

8. Information technology; and

9. Mentoring.

(j) Responsibility for curriculum. The college shall place primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty.

(k) Academic program coordination.

1. For each major in a degree program, the college shall assign responsibility for program coordination, as well as for curriculum development and review, to persons academically qualified in the field who hold degree credentials or other qualifications appropriate to the degree offered.

2. In those degree programs for which the college does not identify a major, this requirement shall apply to a curricular area or concentration.

(l) Technology use.

1. The college's use of technology shall enhance student learning and shall be appropriate for meeting the objectives of its programs.

2. Students shall have access to and training in the use of technology.

(5) Undergraduate educational programs.

(a) College-level competencies. The college shall identify college-level general education competencies and the extent to which graduates have attained them.

(b) Institutional credits for a degree.

1. At least twenty-five (25) percent of the credit hours required for the degree shall be earned through instruction offered by the college awarding the degree.

2. In the case of undergraduate degree programs offered through joint, cooperative, or consortia arrangements, the student shall earn at least twenty-five (25) percent of the credits required for the degree through instruction offered by the participating colleges.

(c) Undergraduate program requirements.

1. The college shall define and publish requirements for its undergraduate programs, including its general education components.

2. These requirements shall display a clear rationale, design, and goals of each program, with courses designed as introductions to the major, required courses, electives, and capstone courses.

(d) Terminal degrees of faculty. At least twenty-five (25) percent of the discipline course hours in each major at the baccalaureate level shall be taught by faculty members holding the terminal degree, the earned doctorate, in the discipline, or the equivalent of the terminal degree.

(6) Graduate and postbaccalaureate professional educational programs.

(a) Postbaccalaureate program rigor. The college's postbaccalaureate professional degree programs, including master's and doctoral degree programs, shall be progressively more advanced in academic content than its undergraduate programs.

(b) Graduate curriculum. The college shall structure its graduate curricula to include knowledge of the literature of the discipline and to ensure ongoing student engagement in research and appropriate professional practice and training experiences.

(c) Institutional credits for a degree.

1. The majority of credits toward a graduate or a postbaccalaureate professional degree shall be earned through instruction offered by the college awarding the degree.

2. In the case of graduate and postbaccalaureate professional degree programs offered through joint, cooperative, or consorial arrangements, the student shall earn a majority of credits through instruction offered by the participating colleges.

(d) Postbaccalaureate program requirements.

1. The college shall define and publish requirements for its graduate and postbaccalaureate professional programs.

2. These requirements shall display a clear rationale, design, and goals of each program, with courses designed as introductions to the major, required courses, electives, and capstone courses.

(7) Faculty.

(a) Faculty competence.

1. The college shall employ faculty members qualified to accomplish the mission and goals of the college.

2. When determining acceptable qualifications of its faculty, a college shall give primary consideration to the highest earned degree in the discipline.

3. The college shall consider competence, effectiveness, and capacity, including, as appropriate, undergraduate and graduate degrees, related work experiences in the field, professional licensure and certifications, honors and awards, continuous documented excellence in teaching, or other demonstrated competencies and achievements that contribute to effective teaching and student learning outcomes.

4. For all cases, the college shall be responsible for justifying and documenting the qualifications of its faculty.

(b) Faculty evaluation. The college shall regularly evaluate the effectiveness of each faculty member in accord with published criteria, regardless of contractual or tenured status.

(c) Faculty development. The college shall provide ongoing professional development of faculty as teachers, scholars, and practitioners.

(d) Academic freedom. The college shall ensure adequate procedures for safeguarding and protecting academic freedom.

(e) Faculty role in governance. The college shall publish policies on the responsibility and authority of faculty in academic and governance matters.

(8) Library and other learning resources.

(a) Learning and information resources. The college shall

provide facilities and learning and information resources that are appropriate to support its teaching, research, and service mission.

(b) Instruction of library use. The college shall ensure that users have access to regular and timely instruction in the use of the library and other learning and information resources.

(c) Qualified staff. The college shall provide a sufficient number of qualified staff with appropriate education or experiences in library and other learning and information resources to accomplish the mission of the college.

(9) Student affairs and services.

(a) Student rights. The college shall publish a clear and appropriate statement of student rights and responsibilities and shall disseminate the statement to the campus community.

(b) Student records. The college shall protect the security, confidentiality, and integrity of student records and maintain special security measures to protect and back up data.

(c) Qualified staff. The college shall employ qualified personnel to ensure the quality and effectiveness of its student affairs programs.

(10) Financial resources.

(a) Financial stability. The college's recent financial history shall demonstrate financial stability.

(b) Submission of financial statements.

1. The college shall provide financial profile information on an annual basis.

2. All information shall be presented accurately and appropriately and shall represent the total operation of the college.

(c) Financial aid audits. The college shall audit financial aid programs as required by federal and state regulations.

(d) Control of finances. The college shall exercise appropriate control over all its financial resources by maintaining accurate and up-to-date records of:

1. Policies related to purchasing, expenditures, and investments;

2. Physical inventory;

3. Internal audit reports;

4. Risk management reports related to financial and physical resources; and

5. Evidence of qualifications and job descriptions of the institution's fiscal officer and business office staff.

(e) Control of sponsored research and external funds. The college shall maintain financial control over externally funded and sponsored research and programs.

(11) Physical resources.

(a) Control of physical resources. The college shall exercise control over all its physical resources.

(b) Institutional environment. The college shall take reasonable steps to provide a healthy, safe, and secure environment for all members of the campus community.

(c) Physical facilities. The college shall operate and maintain physical facilities, both on and off campus, that appropriately serve the needs of the college's educational programs, support services, and other mission-related activities.

(12) Compliance with federal requirements.

(a) Student achievement. The college shall evaluate success with respect to student achievement including, as appropriate, consideration of course completion, state licensing examinations, and job placement rates.

(b) Program curriculum. The college's curriculum shall be directly related and appropriate to the purpose and goals of the college and the diplomas, certificates, or degrees awarded.

(c) Publication of policies. The college shall make available to students and the public current academic calendars, grading policies, and refund policies.

(d) Student complaints. The college shall have adequate procedures for addressing written student complaints and shall be responsible for demonstrating that it follows those procedures when resolving student complaints.

(e) Recruitment materials. Recruitment materials and presentations shall accurately represent the college's practices and policies.

(f) Title IV program responsibilities. The college shall be in compliance with its program responsibilities under Title IV of the

~~1998 Higher Education Amendments, 20 U.S.C. 1070 and 34 C.F.R. Part 668.]~~

Section ~~5~~ [6]. Action on Application. Within six (6) months of the submission of an "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" [if a site visit is not conducted, or within ninety (90) working days of the completion of a site visit,] the president shall do one (1) of the following:

- (1) Approve the applicant college for status as an eligible institution in which a student may enroll and receive a Kentucky tuition grant for ten (10) years;
- (2) Deny the applicant college for status as an eligible institution; or
- (3) Notify the applicant college of deficiencies which shall be corrected before approval is granted.

Section 6. Renewal. (1) A college approved by the Council for eligibility beginning with the 2022-2023 academic year for ten (10) years shall seek renewal of eligibility by submitting the "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" by May 30 of the year prior to its eligibility expiration, and shall pay a nonrefundable fee of \$10,000 to the Council on Postsecondary Education with the submission of the application. Review of the application shall not occur until the fee is paid by the college.

(2) A college that was previously approved by the Council for eligibility beginning with the 2011-2012 academic year shall seek renewal of eligibility by submitting the "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" by May 30, 2021 in order to seek eligibility beyond the month and day of its initial eligibility for 2022, and shall pay a nonrefundable fee of \$10,000 to the Council on Postsecondary Education with the submission of the application. Review of the application shall not occur until the fee is paid by the college.

Section 7. Substantive Change. (1) Approval pursuant to this administrative regulation shall be specific to a licensed college and based on conditions existing at the time of the most recent evaluation and shall not be transferable to other colleges or entities.

(2) An approved college shall notify the president within thirty (30) days of action by an accrediting agency that results in the college being placed on probationary status, a college losing accreditation, or a college being denied accreditation.

(3) The president shall be responsible for evaluating all substantive changes to assess the impact of the change on the college's compliance with this administrative regulation. ~~[The president may conduct, or may have conducted, a site visit in accordance with Section 2(6) of this administrative regulation.]~~

(4) A college's failure to comply with this section shall be grounds for ineligibility under this administrative regulation.

(5) If a college is unclear as to whether a change is substantive in nature, the college shall contact the Council on Postsecondary Education in writing for consultation.

(6) A substantive change shall include the following:

- (a) Action by an accrediting agency that results in the college being placed on probationary status, a college losing accreditation, or a college being denied accreditation;[
- ~~(b) Initiating distance learning;]~~
- ~~(b) [(e)] Initiating a merger or consolidation;~~
- ~~(c) [(d)] Altering significantly the educational mission of the college;~~
- ~~(d) [(e)] Relocating a licensed Kentucky instructional site or principal location of the college;~~
- ~~(e) [(f)] Changing the college's governance, ownership, control, or legal status;~~
- ~~(f) [(g)] Changing the name of the college;~~
- ~~(g) [(h)] Altering significantly the length of a program;]~~
- ~~(i) Initiating degree completion programs;]~~
- ~~(h) [(j)] Adding a new instructional site or program licensed in accordance with 13 KAR 1:020;~~
- ~~(i) [(k)] Denial, suspension, or revocation of licensure by the~~

Council on Postsecondary Education pursuant to 13 KAR 1:020; or
~~(i) [(4)] Closing the college, a Kentucky licensed instructional site, or a Kentucky licensed program and initiating teach out agreements.~~

(7) Within six (6) months of notification by the college of a substantive change ~~[if a site visit is not conducted, or within ninety (90) working days of the completion of a site visit,]~~ the president shall do one (1) of the following:

- (a) Approve the substantive change and continue approval under this administrative regulation without changing the approval period;
- (b) Deny the substantive change and require that the college abandon and not proceed with the substantive change or else lose approval under this administrative regulation;
- (c) Notify the college of deficiencies which shall be corrected before the substantive change is approved, and suspend or revoke approval under this administrative regulation; or
- (d) Suspend or revoke approval under this administrative regulation.

Section 8. Site Visits. (1) The president may conduct, or may have conducted, an announced or unannounced site visit of a licensed college during reasonable business hours to inspect the files, facilities, and equipment as well as conduct interviews to determine the college's eligibility under this administrative regulation.

(2) Failure to provide full access to the college's files, facilities, and equipment or prevention of interviews shall be grounds for ineligibility.

(3) All costs associated with a site visit and necessary subsequent visits, including travel, meals, lodging, and consultant honoraria shall be paid by the applicant college.

(4) The estimated cost of the site visit shall be paid by the college prior to the site visit, and final settlement regarding actual expenses incurred shall be paid no later than thirty (30) days following the completion of the site visit.

(5) Failure to pay these costs shall result in ineligibility.

Section ~~9~~ [8.] Hearings and Appeals. (1) The president may, for cause, require the chief administrative officer, or other officers, of a college to appear for a hearing consistent with the provisions of KRS Chapter 13B, in order to determine the facts if the president has determined that there are sufficient grounds for ineligibility under this administrative regulation.

(2) The officer, or other officers, of the college may be accompanied at the hearing by counsel of their own choosing and at their expense.

(3) Within thirty (30) working days after a hearing is held, the president shall reach a determination and shall issue findings, in writing, to the Council and to the chief executive officer of the college.

(4) A college may appeal the actions of the president regarding a college's ineligibility under this administrative regulation according to the following procedure:

(a) A college shall notify the president of the intent to appeal an action within fourteen (14) days of the receipt of the letter notifying the college of the action taken;

(b) The president shall request that the Office of Administrative Hearings appoint a hearing officer who shall conduct an administrative hearing consistent with the provisions of KRS Chapter 13B;

(c) The appeal shall be presented in writing no later than sixty (60) days following the receipt of notification of intent to appeal;

(d) The appeals officer shall review findings of fact, consider testimony, draw conclusions, and formulate a recommendation consistent with the facts and this administrative regulation;

(e) Within fourteen (14) days, the report of the appeals officer shall be forwarded to the college and to the president of the Council on Postsecondary Education; and

(f) Within thirty (30) working days of receipt of the report of the appeals officer, the president shall approve or not approve the college.

Section 10. [9.] Incorporation by Reference. (1) "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050", May 2020 [~~November 2009~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Council on Postsecondary Education, 100 Airport Road, 2nd Floor, [4024 Capital Center Drive, Suite 320,] Frankfort, Kentucky 40601.

BEN BRANDSTETTER, Chair

TRAVIS POWELL, General Counsel

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 14, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 24, 2020 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, 2nd Floor, Frankfort, Kentucky 40601 in Conference Room A. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification 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 July 31, 2020. 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: Sarah Levy, Executive Director of Postsecondary Licensing, Council on Postsecondary Education, 100 Airport Road, 2nd Floor, Frankfort, Kentucky 40601, phone 502.892.3034, email sarah.levy@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Sarah Levy

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 164.780 creates the Kentucky Tuition Grant (KTG) program to provide need-based aid to qualified Kentucky residents attending eligible private colleges located in Kentucky. In order to be eligible to accept KTG awards on behalf of a student, private institutions must be licensed by the Council and accredited by the Southern Association of Colleges and Schools, Commission on Colleges (SACSCOC). If SACSCOC accreditation is not available to a licensed, regionally accredited, out of state institution due to its main campus being located outside SACSCOC's geographic region, this regulation provides the process by which an institution may petition the Council for approval.

(b) The necessity of this administrative regulation: KRS 164.785(7)(c) requires that the Council promulgate an administrative regulation to outline the process for KTG eligibility for institutions described in (1)(a).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.785(7)(c) requires that the criteria for approval mirror SACSCOC accreditation criteria and the proposed amendments will bring the regulation into statutory conformance.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides a process for approve institutions for KTG participation in accordance with KRS 164.785(7)(c).

(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 aligns the requirements of the regulation with the SACSCOC Principles of Accreditation effective January 1, 2018. It also requires institutions to apply every ten (10) years for a fee of \$10,000 rather than a one-time fee of \$1,000. And finally, it allows site visits to occur on a case by case basis

rather than upon initial application with the intention of having Council staff conduct the review in-house. Previously, approvals were only provided after a site visit, which required the hiring of outside consultants at a significant fee to the applying colleges.

(b) The necessity of the amendment to this administrative regulation: KRS 164.785(7)(c) requires that the requirements for eligibility "mirror" the SACSCOC accreditation criteria and the amendment makes the necessary changes to conform.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes give the Council the authority to promulgate a regulation for KTG eligibility that includes criteria that mirrors those of SACSCOC principles.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will make the KTG eligibility process for affected institutions mirror SACSCOC requirement as required by KRS 164.785(7)(c).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Regionally accredited, out-of-state institutions with campuses in Kentucky licensed by the Council whose main campuses are outside the SACSCOC region that want to participate in KTG.

(4) Provide an assessment 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 identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities, including those with existing approval and those seeking approval, must submit an application under the newly amended regulation. Existing approved colleges must reapply by May 30, 2021 under the new standards. Institutions must reapply every ten (10) years thereafter.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The application fee will be raised from \$1,000 to \$10,000, but for new colleges seeking approval the likelihood of a site visit is reduced, which will reduce the financial burden.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Approved colleges will be able to receive KTG grant monies for eligible students attending the institution.

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

(a) Initially: With one new institution seeking approval and three existing that must reapply, roughly \$40,000.

(b) On a continuing basis: Roughly \$10,000 each time an institution is initially approved or their approval is renewed.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Yes, an increase of fee is necessary to support the in-house review of applications.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes. This regulation assesses fees.

(9) TIERING: Is tiering applied? No, the amendment does not apply any tiering as all regulated entities will be treated identically in its application.

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 Higher Education Assistance Authority (KHEAA) must keep track of the approved institutions as they administer KTG on behalf of students.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative

regulation. KRS 164.785(7)(c).

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Revenue from fees will generate \$40,000 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? An additional \$40,000 every ten (10) years.

(c) How much will it cost to administer this program for the first year? Approximately \$40,000.

(d) How much will it cost to administer this program for subsequent years? Approximately \$40,000 every ten (10) 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: N/A

BOARDS AND COMMISSIONS

Board of Nursing (Amendment)

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder.

RELATES TO: KRS 314.011, 314.042, 21 U.S.C. 823

STATUTORY AUTHORITY: KRS 314.131

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131 authorizes the board to promulgate administrative regulations to regulate the conduct of its licensees. This administrative regulation establishes the professional standards for APRNs practicing in Kentucky who prescribe Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Section 1. Definitions.

(1) "Advanced Practice Registered Nurse" or "APRN" is defined by KRS 314.011(7).

(2) "Buprenorphine" means the controlled substances Buprenorphine-Mono-Product and Buprenorphine-Combined-with-Naloxone.

Section 2. Minimum Qualifications for Prescribing Buprenorphine. An advanced practice registered nurse (APRN) shall not prescribe Buprenorphine for Opioid Use Disorder unless that APRN possesses the minimum qualifications established in this section.

(1) The APRN shall obtain and maintain in good standing a DATA 2000 waiver and registration as issued by the United States Drug Enforcement Administration (DEA) to prescribe Buprenorphine for the treatment of Opioid Use Disorder.

(2) The APRN shall:

(a) Be a DEA-registered prescriber of Buprenorphine; and

(b) Have obtained medication assisted treatment education through completion of a Substance Abuse and Mental Health Services Administration (SAMHSA) sponsored course.

(3) The APRN shall provide to the board a copy of the DEA Controlled Substance Registration Certificate as required by 201 KAR 20:057, Section 6(4).

(4) The APRN shall comply with all federal statutes and regulations pertaining to the prescribing of Buprenorphine. This shall include the maximum number of patients, which may be seen by the APRN each year, and the inclusion of the special DEA identification number in addition to the regular DEA registration number on all prescriptions for opioid dependency treatment.

(5) It is not within the scope of practice for an APRN who does not hold a DATA 2000 waiver to conduct a focused examination required to prescribe Buprenorphine for the treatment of substance use disorder.

(6) The APRN shall comply with all federal statutes and regulations pertaining to the prescribing of controlled substances via telehealth for medication assisted treatment for opioid use disorder.

(7) DEA-registered APRNs acting within the United States, which include DATA 2000-waivered practitioners, are exempt from the in-person medical evaluation requirement as a prerequisite to prescribing or otherwise dispensing controlled substances via the Internet if the practitioner is engaged in the practice of telemedicine as defined under 21 U.S.C. § 802(54).

(8) The APRN who is at a remote location from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1395m(m) of Title 42, shall comply with applicable federal and state laws.

Section 3. Professional Standards for Prescribing Buprenorphine for Supervised Withdrawal or the Treatment of Opioid Use Disorder.

(1) Buprenorphine may be prescribed for supervised withdrawal or as a maintenance treatment for a patient diagnosed with Opioid Use Disorder in accordance with the standards established by this administrative regulation.

(2) Buprenorphine-Mono-Product shall not be prescribed for supervised withdrawal or as a maintenance treatment for a patient diagnosed with Opioid Use Disorder, except:

(a) To a pregnant patient, as established in subsection (4)(b) of this section;

(b) To a patient with demonstrated hypersensitivity to naloxone; or

(c) As ~~[an implant-delivered, injectable treatment]~~ administered under supervision~~[-or observed induction]~~ in an APRN's office or other healthcare facility, including hospitals, urgent care settings, surgical care centers, residential treatment facilities, and correctional facilities; or

(d) To a patient transitioning from methadone to buprenorphine, limited to a period of no longer than one week.

(3)(a) Except as provided in paragraph (b) of this subsection, Buprenorphine shall not be prescribed to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants or other opioids, without consultation of:

1. A physician certified in addiction medicine or psychiatry as required by 201 KAR 9:270;

2. An APRN who is certified in addiction therapy by the:

a. Addictions Nursing Certification Board;

b. American Academy of Health Care Providers in the Addictive Disorders; or

c. National Certification Commission for Addiction Professionals; or

3. A psychiatric-mental health nurse practitioner.

(b) An APRN may prescribe Buprenorphine to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants, or other opioids, without consultation in order to address a documented ~~[an]~~ extraordinary and acute medical need not to exceed a combined period of thirty (30) days.

(4) Each APRN who prescribes Buprenorphine for supervised withdrawal or for the treatment of Opioid Use Disorder shall fully comply with the professional standards established in this subsection.

(a) Prior to initiating treatment, the APRN shall:

1. Obtain, review, and record a complete and appropriate evaluation of the patient, which shall at a minimum include:

a. The patient's history of present illness;

b. The patient's history of drug use;

c. The patient's social and family history;

d. The patient's medical and psychiatric histories;

e. A focused physical examination of the patient;

f. Appropriate laboratory tests, which may include a complete blood count (CBC), a comprehensive quantitative drug screen, liver

function tests, a complete metabolic panel (CMP), HIV screening, and hepatitis serology; and

g. An evaluation by a mental health provider with expertise in addiction and compliance with the recommendations of the evaluator.

2. Obtain the patient's consent and authorizations in order to obtain and discuss the patient's prior medical records.

a. Upon receipt of the medical records, the APRN shall review and incorporate the information from the records into the evaluation and treatment of the patient.

b. If the APRN is unable, despite best efforts, to obtain the patient's prior medical records, the APRN shall document those efforts in the patient's chart.

3. Obtain and review a KASPER or other prescription drug monitoring program (PDMP) report for that patient for the twelve (12) month period immediately preceding the initial patient encounter and appropriately utilize that information in the evaluation and treatment of the patient;

4. Explain treatment alternatives, the risks, and the benefits of treatment with Buprenorphine to the patient.

5. Obtain written informed consent from the patient for treatment.

6. Discuss and document the patient's treatment with the patient's other providers;

7. If the patient is a female of childbearing potential and age, meet the requirements of paragraph (b) of this subsection; and

8. Develop a treatment plan that incorporates objective behavior modification including counseling or a twelve (12) step program for the duration of the treatment.

(b) 1. Prior to initiating treatment, the APRN shall require that the patient first submit to a pregnancy test and, if pregnant, the APRN shall provide counseling as to the risk of neonatal abstinence syndrome which shall be consistent with current SAMHSA guidance [patient education material on neonatal abstinence syndrome from the American Congress of Obstetricians and Gynecologists, American Academy of Pediatrics, American Society of Addiction Medicine (ASAM) and the Kentucky Department for Public Health, and offer means to prevent pregnancy].

2. An APRN who prescribes [shall not prescribe] Buprenorphine to a patient who is pregnant or breastfeeding shall first obtain and document [unless the APRN first obtains and documents] consultation with an obstetrician or a maternal-fetal medicine specialist who holds a DATA 2000 waiver that determines [for an opinion as to whether] the potential benefit of Buprenorphine use outweighs the potential risk of use.

3. ~~The consultation shall be obtained from a physician or an APRN as established in subsection (3)(a) of this section.~~

(c) Except as provided by paragraph (d) of this subsection, while initiating treatment with Buprenorphine, the APRN shall comply with the following requirements:

1. The APRN shall recommend to the patient an in-office observed induction protocol.

a. Except as provided in clause b. of this subparagraph, the APRN shall conduct or supervise the in-office observed induction protocol.

b. If an in-office observed induction does not occur, the APRN shall appropriately document the circumstances in the patient record and shall implement a SAMHSA-recognized or ASAM recognized home-based induction protocol.

2. The APRN shall document the presence of any opioid withdrawal symptoms before the first dose is given by using a standardized instrument, such as the clinic opioid withdrawal scale (COWS) or other similarly recognized instrument.

3. The APRN shall initiate treatment with a dose not to exceed the dose equivalency of four (4) milligrams buprenorphine generic tablet, which:

a. May be followed by subsequent doses if withdrawal persists [and is not improving]; and

b. Shall not exceed the dose equivalency of sixteen (16) milligrams buprenorphine generic tablet on the first day of treatment.

(d) If the patient is transferred from another treatment provider

and has previously experienced withdrawal without a relapse and has not had a lapse in treatment, the APRN shall:

1. Document the previous history of withdrawal;

2. Educate the patient about the potential for precipitated withdrawal; [and]

3. Continue maintenance treatment of the patient on the same or less dosage as established by the previous treatment provider and then as provided in paragraph (e) of this subsection; and

4. Schedule visits at the same frequency as the previous treatment provider would have been required to or more frequently if deemed necessary by the APRN.

(e) After initial induction of Buprenorphine, the APRN shall prescribe to the patient an amount of Buprenorphine that:

1. Is necessary to minimize craving and opiate withdrawal;

2. Does not produce opiate sedation;

3. Is able only to supply the patient until the next visit, which shall be scheduled as required by this section; and

4. Does not exceed the FDA-approved dosage limit [of twenty-four (24) milligrams per day].

(f) The patient's visits shall be scheduled as follows:

1. The APRN shall ensure that [see] the patient is seen no later than ten (10) days after induction and then at intervals of no more than ten (10) days for the first month after induction and at intervals of no more than fourteen (14) days for the second month after induction [at least weekly for the first two (2) months].

2. If the patient demonstrates objective signs of positive treatment progress after the first two (2) months, the [APRN shall see the] patient shall be seen at least once monthly thereafter for up to two (2) years.

3. If after two (2) years after initiation of treatment, the patient has demonstrated objective signs of positive treatment progress, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives, then the APRN may require that the patient be seen [only by the APRN] at least once every three (3) months. The APRN shall:

a. Evaluate the patient to determine whether the patient's dosage should be continued or modified; and

b. Appropriately document that evaluation and clinical judgment in the patient's chart.

4. The APRN shall see the patient in shorter intervals if the patient demonstrates any noncompliance with the treatment plan.

5. If extenuating circumstances arise that require a patient to unexpectedly reschedule a visit, the APRN shall make best efforts to see the patient as soon as possible and document the circumstances in the patient chart.

(g) The APRN shall review compliance with the recommendations of the treatment plan, including review of KASPER or other PDMP reports and drug screens to help guide the treatment plan at each visit.

1. The APRN shall:

a. Incorporate those findings into the treatment plan to support the continuation or modification of treatment; and

b. Accurately document the same in the patient record.

2. Appropriate evaluation may include adjustment of dose strength or frequency of visits, increased screening, a consultation with or referral to a specialist, or an alternative treatment, including consideration of weaning.

3. The APRN shall obtain a minimum of eight (8) drug screens from the patient within each twelve (12) month period of treatment in order to help guide the treatment plan.

a. At least two (2) of the drug screens shall be random and coupled with a pill count. At least one (1) of those two (2) drug screens shall be confirmed by gas chromatography/mass spectrometry (GC/MS) or liquid chromatography/mass spectrometry (LC/MS).

b. Each drug screen shall, at a minimum, screen for buprenorphine, methadone, [oxycodone, other] opioids, THC, benzodiazepines, amphetamines, alcohol, gabapentin, and cocaine.

c. If a drug screen indicates the presence of any of the drugs screened, the APRN shall:

(i) Incorporate those findings into appropriate clinical evaluation to support the continuation or modification of treatment;

and

(ii) Document in the patient record.[

d. ~~Appropriate evaluation may include adjustment of dose strength or frequency of visits, increased screening, a consultation with or referral to a specialist, or an alternative treatment.]~~

(h) Every twelve (12) months following initiation of treatment, if a patient's prescribed daily therapeutic dosage exceeds the dose equivalency of sixteen (16) milligrams Buprenorphine generic tablet per day, then the APRN who is not certified in addiction therapy shall:

1. Refer the patient for an evaluation by a physician or an APRN as established in subsection (3)(a) of this section for an opinion as to whether continued treatment and dosage is appropriate; and

2. Document the results of that evaluation in the patient chart.

(i) For patients who have demonstrated objective signs of positive treatment progress for at least two (2) years from the date of initiation of treatment, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives, the APRN shall evaluate for and document every twelve (12) months the medical necessity for continued treatment at the established dose.

(j) The APRN shall document a plan for dealing with any lost or stolen medication, which[:

4.] shall not provide for the automatic replacement of medication prior to the specified interval date[; and

2. ~~If the APRN determines that it is necessary to minimize improper or illegal diversion of medications under the circumstances, the APRN shall require the patient to first report the lost or stolen medications to police or other law enforcement agencies and require the patient to provide evidence to the APRN of having so reported].~~

(k) After initial induction, the APRN shall implement a treatment plan that requires objective behavioral modification by the patient. The behavioral modification shall include the patient's participation in a behavioral modification program that shall include counseling or a twelve (12) step facilitation.

Section 4. Continuing education. An APRN who has obtained a waiver and registration as issued by the DEA [Drug Enforcement Administration (DEA)] to prescribe Buprenorphine for the treatment of Opioid Use Disorder shall complete the one and one-half (1.5) contact hours of continuing education required annually by 201 KAR 20:215, Section 5(1)(b) in addiction disorders.

Section 5. Use of transmucosal Buprenorphine for treatment of opioid use disorder in an emergency situation or inpatient setting.

(1) In an emergency, including in a hospital emergency department or similar outpatient urgent care setting, or in an inpatient setting, an APRN may offer and initiate Buprenorphine treatment to patients who present with opioid use disorder, without meeting the requirements established in Sections 2 and 3 of this administrative regulation and to the extent permitted by federal law, if:

(a) The APRN has determined that the use of Buprenorphine will not result in a harmful interaction with other medications or substances in the patient's system, including benzodiazepines, sedative hypnotics, carisoprodol, or tramadol;

(b) The APRN obtains and documents written informed consent from the patient specific to risks and benefits of Buprenorphine treatment; and

(c) The APRN provides the patient with written instructions and contact information for appropriate follow up care, including bridge-provider services, residential treatment providers, and outpatient treatment providers.

(2) The APRN shall initiate Buprenorphine treatment under an observed induction protocol with an initial dose not to exceed the dose equivalency of four (4) milligrams buprenorphine generic tablet, which may be followed by subsequent doses, up to a maximum of twenty-four (24) milligrams buprenorphine generic tablet, if withdrawal persists and is not improving.

Section 6. Telehealth. Nothing in this administrative regulation

shall be construed to prohibit prescribing buprenorphine via telehealth. The prescribing APRN shall follow the standards set by 201 KAR 20:520.

DINA BYERS, President

APPROVED BY AGENCY: April 16, 2020

FILED WITH LRC: April 20, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 27, 2020 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m.) July 31, 2020. 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: Morgan Ransdell, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3339, fax (502) 429-1248, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Morgan Ransdell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets standards for advanced practice registered nurses (APRN) who are authorized by federal law to prescribe buprenorphine for treatment of opioid use disorder.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because federal law requires licensure boards of nurses to set standards.

(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 setting standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting standards.

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

(a) How the amendment will change this existing administrative regulation: The amendment makes several changes to update the standards, such as adding provisions regarding telehealth.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to keep the standards current.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set these standards.

(d) How the amendment will assist in the effective administration of the statutes: By having current and appropriate standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 177 APRNs with authority from the DEA to prescribe buprenorphine.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to follow the new

standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the new standards.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

BOARDS AND COMMISSIONS

Board of Nursing (Amendment)

201 KAR 20:110. Licensure by endorsement.

RELATES TO: KRS 194A.540, 314.031, 314.041, 314.051, 314.091, 314.103, 314.109, 314.475, 314.991

STATUTORY AUTHORITY: KRS 314.041(7), 314.051(8), 314.101(4), 314.103, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement the provisions of KRS 314.011 to 314.991. KRS 314.041(7) and 314.051(8) authorize the board to issue a license to practice nursing as a registered nurse

or a licensed practical nurse to an applicant who has passed the required examination or its equivalent and who was licensed to practice nursing in another jurisdiction. KRS 314.103 authorizes the board to require a criminal background check investigation of an applicant or nurse. KRS 314.101(4) authorizes the board to issue a temporary work permit to a person who has completed the requirements for, applied for, and paid the fee for licensure by endorsement. This administrative regulation establishes the requirements for licensure by endorsement and establishes the requirements for a temporary work permit for an applicant to practice nursing while the application for a license is being processed.

Section 1. Eligibility for Licensure by Endorsement.

(1) To be eligible for licensure by endorsement, an applicant shall:

(a)1. Have completed a state approved program of nursing equivalent to Kentucky requirements; or

2. Have completed that portion of a state-approved program of nursing that is equivalent to a Kentucky program of nursing;

(b) Have taken and passed the State Board Test Pool Examination or National Council Licensure Examination or an examination that is consistent with Section 4 of this administrative regulation;

(c) Complete the application form, as required by 201 KAR 20:370, Section 1(1);

(d) Submit the current fee for a licensure application, as established by 201 KAR 20:240;

(e) Report and submit a certified or attested copy of each disciplinary action taken or pending on a nursing or other professional or business license by another jurisdiction and a letter of explanation;

(f) Submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction as required by 201 KAR 20:370, Section 1(3);

(g) Request the U.S. jurisdiction, territory, or foreign country of initial licensure to submit to the board a verification of licensure by examination, which shall include the following information:

1.a. Name of the program of nursing completed and date of graduation; or

b. Name of the program of nursing attended and date of completion of the requirements for eligibility to take the licensure examination in that jurisdiction; and

2. A statement that the applicant's license has not been revoked, suspended, limited, probated, or otherwise disciplined by the licensing authority and is not subject to disciplinary action;

(h) Submit a criminal record check completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card, and including payment of any required fee to the KSP and the FBI; and

(i) Submit evidence of completion of the jurisprudence examination required by KRS 314.041(4) for RN applications or KRS 314.051(4) for LPN applications as approved by the board.

(2) An application shall be valid for a period of one (1) year [six (6) months]. The applicant shall:

(a) Submit a copy of a marriage certificate, divorce decree, Social Security card, or court order to change the applicant's name, if the applicant's name is changed after the original application is filed; and

(b) Notify the board in writing as soon as a new address is established after submitting the application.

(3) After six (6) months if the requirements for licensure have not been met, the applicant shall:

(a) Submit a new application;

(b) Submit the current licensure application fee; and

(c) Meet the requirements established in this section.

(4)(a) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 194A.540.

(b) The applicant shall complete the one and one-half (1.5) contact hour continuing education course on pediatric abusive

head trauma within three (3) years of licensure as required by 201 KAR 20:215, Section 5(3).

(5) An applicant shall not be licensed until a report is received from the FBI pursuant to the request submitted under subsection (1)(h) of this section and any conviction is addressed by the board.

(6) A graduate of a school of nursing in Puerto Rico after September 1, 2006, in addition to the other requirements of this section, shall provide evidence of evaluation of the graduate's transcript by the Commission on Graduates of Foreign Nursing Schools or a credential evaluation organization that is a member of the National Association of Credentialing Evaluation Services. The evaluation shall indicate that the school of nursing is substantially equivalent to a school of nursing in this state.

Section 2. Nursing Practice and Continuing Education Requirements.

(1) Except as provided in subsection (2) of this section, an applicant shall complete fourteen (14) contact hours in continuing education for each year since the last year in which the applicant is able to demonstrate at least 100 hours of practice.

(2) The requirement established in subsection (1) of this section shall not apply to an applicant who:

(a) Has been licensed for less than five (5) years from the date of initial licensure;

(b) Has been actively licensed and engaged in nursing practice for at least 500 hours during the preceding five (5) years; or

(c) Has not been engaged in nursing practice during the five (5) years preceding the date of the application. This applicant shall complete at least 120 contact hours of continuing education earned within one (1) year of the date of the application.

(3) At least fourteen (14) contact hours shall have been earned within the twelve (12) months preceding the date of application for active Kentucky licensure status.

(4) Continuing education earned more than five (5) years preceding the date of application shall not be counted toward meeting the requirements established in subsections (1) and (3) of this section.

Section 3. Temporary Work Permit. (1) An applicant for licensure by endorsement who meets all of the requirements of Section 1(1)(a) through (i), except for paragraph (g) of this administrative regulation shall be issued a temporary work permit, but not until the report is received from the FBI and any conviction is addressed by the board.

(2) A temporary work permit shall be valid for a period not to exceed six (6) months.

(3) An individual who practices as a nurse in Kentucky without a current temporary work permit prior to issuance of a current active license shall be considered to be practicing without a license in violation of KRS 314.031 and shall be subject to the penalties listed in KRS 314.091 and 314.991.

Section 4. Licensing Examination Standards. An applicant who has taken an examination other than the State Board Test Pool Examination or the National Council Licensure Examination shall provide evidence to the board that the examination met the following standards of equivalency:

(1) Accepted psychometric procedures shall be used in the development of the examination;

(2) The examination shall be available to the board in the English language;

(3) The examination test plan blueprint shall be available for board review and adequately identifies test content and content weighting;

(4) Test items shall be available for board review and demonstrate the testing of competency necessary for safe practice;

(5) At least one (1) of the reliability estimates for the examination shall be 0.80 or higher;

(6) The examination shall be revised after each administration to ensure currency and security of content; and

(7) The examination shall be given under strict security measures.

Section 5. Applicants for LPN license pursuant to KRS 314.041(13). An applicant for an LPN license pursuant to KRS 314.041(13) shall meet the requirements of this administrative regulation.

Section 6. (1) An applicant not from a party state under the Nurse Licensure Compact who is issued a license and does not have permanent residency in Kentucky shall be issued a license that indicates on the license that it is only valid in Kentucky.

(2) The board may request that an applicant provide evidence of the applicant's state of residence.

DINA BYERS, President

APPROVED BY AGENCY: April 16, 2020

FILED WITH LRC: April 20, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 27, 2020 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m.) July 31, 2020. 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: Morgan Ransdell, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3339, fax (502) 429-1248, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Morgan Ransdell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets procedures for licensure by endorsement from another state.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.041 and KRS 314.051.

(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 setting the necessary procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting 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: It lengthens the time that an application remains in effect from six months to one year.

(b) The necessity of the amendment to this administrative regulation: The change will make the length of time the same as the licensure by examination.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set these procedures.

(d) How the amendment will assist in the effective administration of the statutes: By giving the applicant more time to meet the requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for licensure by endorsement,

number unknown.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have more time to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost associated with complying with this administrative regulation.

(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 the administrative body to implement this administrative regulation:

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

BOARDS AND COMMISSIONS

Board of Nursing (Amendment)

201 KAR 20:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs.

RELATES TO: KRS 314.011(5), 314.021, 314.041(1)(a), 314.111(1), 314.131(1), (2)

STATUTORY AUTHORITY: KRS 314.041(1)(a), 314.051(1)(a), 314.111(1), 314.131(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(1)(a) and 314.051(1)(a) require that an applicant for licensure as a registered or licensed practical nurse complete the basic nursing curriculum in an approved school of nursing. KRS 314.111(1) requires that schools of nursing regardless of delivery models shall meet minimum standards and be approved by the Board of Nursing. KRS 314.131(1) and (2) authorizes the board to promulgate administrative regulations necessary to approve programs of nursing. This administrative regulation establishes the curriculum requirements for prelicensure registered nurse and practical nursing programs.

Section 1. Definitions. (1) "Debriefing" means an activity that follows a simulation experience, is led by a nurse faculty as established in 201 KAR 20:310, Section 2, encourages participant's reflective thinking, and provides feedback regarding the participant's performance.

(2) "Distance learning" means didactic instruction offered by any means where the student and faculty are in separate physical locations.

(3) "Practical nursing program" means a program of nursing organized and administered by a vocational, technical, or adult education system or an independent school at a postsecondary level that awards the graduate a diploma in practical nursing upon meeting requirements of the program.

(4) "Program of nursing" means the educational unit that prepares a person for licensure as a registered or licensed practical nurse.

(5) "Registered nursing program" means a program of nursing organized and administered by an institution of higher learning that awards a degree in nursing upon meeting requirements of the program.

(6) "Remediation" means the process by which a student improves or corrects a knowledge deficit.

(7) "Simulation" means an activity or a technique that replicates actual or potential situations in clinical practice that allows the participant to develop or enhance critical thinking.

Section 2. General. (1) An applicant for licensure shall complete a prelicensure program of nursing that meets the requirements of this administrative regulation.

(2) Length.

(a) A registered nursing program shall be a minimum of two (2) academic years, which may include prior articulated academic credits.

(b) A practical nursing program shall be a minimum of one (1) academic year.

(3) Philosophy, mission, and outcomes.

(a) The philosophy, mission, and outcomes of the program of nursing shall be clearly defined in writing by the nursing faculty and be consistent with those of the governing institution.

(b) The program outcomes shall describe the expected competencies of the graduate.

(c) The program shall conduct an evaluation to validate that identified program outcomes have been achieved and provide evidence of improvement based on an analysis of those results.

(4) Approval.

(a) A curriculum plan shall be approved by the board in accordance with this administrative regulation.

(b) The curriculum plan shall enable the student to develop the nursing knowledge, skills, and competencies for the expected entry level and scope of practice.

(c) Theory and clinical experiences shall provide the student with opportunities to acquire and demonstrate the knowledge, skills, and competencies necessary for safe practice.

(5) Curriculum plan.

(a) The development, implementation, evaluation, and revision of the curriculum shall be the responsibility of the nursing faculty including the program administrator with input from students.

(b) The curriculum of the program of nursing shall assure the development of evidence based practice for the level and scope of

nursing practice. This shall include the skills to identify and apply best practices in nursing care by providing client-centered, culturally competent care and respecting client differences, values, preferences, and expressed needs.

(c) A registered nursing program may determine that a portion of the curriculum fulfills the scope of practice for licensed practical nursing and allow students to exit the program and be made eligible for the NCLEX-PN examination. The registered nursing program shall submit its plan to the board for approval.

(6) Organization of the curriculum.

(a) There shall be a written plan, including supporting rationale, which describes the organization and development of the curriculum.

(b) The curriculum plan shall reflect the philosophy, mission, and outcomes of the program.

(c) There shall be a rationale for the amount of time or credits allocated to course and clinical practice experience.

(d) A course syllabus shall be developed for each nursing course to include outcomes, planned instruction, learning activities, and method of evaluation.

1. Each course shall be implemented in accordance with the established course syllabus.

2. A copy of each course syllabus shall be on file in the program of nursing office and shall be available to the board upon request.

(e) The curriculum plan shall be logical and sequential, and shall demonstrate an increase in difficulty and complexity as the student progresses through the program.

(f) A course may be offered as a distance learning course. A distance learning course shall meet the same standards as established in 201 KAR 20:260 through 201 KAR 20:360 for any other course.

(7) Curriculum components.

(a) The curriculum of a registered nursing program or a practical nursing program shall prepare the graduate for licensure and full scope of practice as defined by current standards for nursing practice and expected competencies of graduates at the appropriate educational level.

(b) The curriculum shall include:

1. Theory and selected clinical practice experiences designed to enable students to provide nursing care to individuals throughout the life span; and

2. Information regarding Kentucky nursing laws, including scope of practice, licensure requirements, and the role of the board of nursing. This subparagraph shall be implemented by January 1, 2020.

(c) Clinical practice settings shall be appropriate for the type of nursing program and the program outcomes and enable the student to observe and practice safe nursing care of persons at each stage of the life span. Experiences shall include opportunities to learn and provide care to diverse ethnic and cultural populations.

(d) Clinical practice experience shall be supervised by board approved nursing faculty in accordance with 201 KAR 20:310.

(e) The curriculum shall have written measurable program outcomes that reflect the role of the graduate.

(f) Students shall have sufficient opportunities in simulated or clinical settings to develop psychomotor skills essential for safe, effective practice.

(8) Curriculum change.

(a) A program of nursing that is not accredited by a national nursing accrediting body shall submit a written plan for major curriculum revisions to the board a minimum of four (4) months prior to the planned implementation.

1. A request for curriculum revision shall include the present plan and the proposed change with rationale and expected outcomes.

2. The board shall be available to assist if curriculum revisions are being considered.

3. Major curriculum revisions shall include:

a. A change in the philosophy, mission, or outcomes that results in a reorganization or reconceptualization of the entire curriculum; or

b. The addition of tracks or alternative programs of study that

provide educational mobility.

(b) A program of nursing that implements a curriculum change shall provide an evaluation of the outcomes of those changes through the first graduating class following full implementation of the curriculum change. The program of nursing shall also submit the evaluation with its annual report.

(9) Integrated practicum.

(a) The curriculum shall include an integrated practicum. The integrated practicum shall consist of a minimum of 120 clock hours of concentrated clinical experience of direct patient care in a health care facility or health care organization.

(b) The integrated practicum shall be completed within a period not to exceed seven (7) consecutive weeks while the governing institution is in session and within seven (7) months of graduation.

Section 3. Simulation Standards. (1)(a) A program of nursing that uses simulation shall adhere to the standards set in this section.

(b) A program of nursing shall not use simulation for more than fifty (50) percent of its total clinical hours required for graduation.

(2)(a) The program of nursing shall provide resources sufficient to support the simulation activities, including training of the faculty, and programmatic outcomes.

(b) Simulation activities shall be managed by a nurse who is academically and experientially qualified in the use of simulation, both in its pedagogical and technical aspects. The managing nurse shall demonstrate his or her qualifications by:

1. Attendance at simulation conferences;

2. Completion of educational activities related to simulation; or

3. Holding a credential issued by the Society for Simulation in Healthcare or a simulation preparation program recognized by the International Nursing Association for Clinical Simulation.

(c) The program of nursing shall have written rationale for the use and purpose of simulation within the curriculum.

(d) The program of nursing shall have an orientation plan for faculty concerning simulation.

(e) The program of nursing shall have a written procedure on the method of prebriefing and debriefing each simulated activity.

(3) The program of nursing shall have appropriate facilities for conducting simulation. This shall include educational and technological resources and equipment to meet the intended objectives of the simulation.

(4) Faculty, both didactic and clinical, that utilize simulation shall:

(a) Have training in the use of simulation; and

(b) Engage in on-going professional development in the use of simulation.

(5) The simulation activities shall be linked to the program of nursing's course objectives and the programmatic outcomes.

(6) Beginning July 1, 2019, a program of nursing shall submit evidence of compliance with these standards in the annual report required by 201 KAR 20:360, Section 3(1) of this administrative regulation.

Section 4. Use of External Examinations. (1) An external examination is a standardized or norm-referenced examination that is designed to compare and rank test takers in relation to one another and is not produced by the program of nursing.

(2) A program of nursing shall not use ~~[require the completion of]~~ an external examination to determine ~~[as a determinant for]~~ a student's progression or graduation.

(3) An external examination may be used to assist in the remediation of a student ~~[or as part of a final course grade. If used as part of a final course grade, it shall not count for more than ten (10) percent of the grade.]~~ The examination shall not be the sole remediation strategy.

(4) A program of nursing that utilizes an external examination as the basis for requiring student remediation shall ensure that completion of remediation occurs within the same semester or quarter.

(5) The academic progression policy of the program of nursing shall clearly outline the role of the external examination in remediation.

(6) A program of nursing shall not require students who have completed all requirements for graduation to earn a specific score or benchmark on an external examination as a condition for graduation or for placing the student's name on the Certified List of Kentucky Program of Nursing Graduates pursuant to 201 KAR 20:070.

Section 5. Statutory Additions. (1) Each program of nursing shall include information in its curriculum that meets the requirements of KRS 194A.540 related to domestic violence and elder abuse, neglect, and exploitation.

(2) Each program of nursing shall include information about pediatric abusive head trauma as it is defined in KRS 620.020.

DINA BYERS, President

APPROVED BY AGENCY: April 16, 2020

FILED WITH LRC: April 20, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 27, 2020 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m.) July 31, 2020. 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: Morgan Ransdell, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3339, fax (502) 429-1248, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Morgan Ransdell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets standards for curriculum in prelicensure programs of nursing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.111.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing standards.

(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.

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

(a) How the amendment will change this existing administrative regulation: It clarifies how and when external examinations may be used by a program of nursing.

(b) The necessity of the amendment to this administrative regulation: The administrative regulation was confusing and internally inconsistent.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set standards. This clarification assists the programs of nursing in their use of external examinations.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying the use of external examinations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: Prelicensure programs of nursing, 92.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to comply with the permitted use of external examinations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the standards.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

BOARDS AND COMMISSIONS

**Board of Nursing
(Amendment)**

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

RELATES TO: KRS 216B.400(2), (4), 314.011(14), 314.103, 314.142, 314.475, 403.707, 421.500-421.575, 431.600-431.660

STATUTORY AUTHORITY: KRS 314.131(1), 314.142(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.142(1) requires the board to promulgate administrative regulations to create a Sexual Assault Nurse Examiner Program. This administrative regulation establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner.

Section 1. Definitions.

(1) "Adolescent" means a child who has reached the onset of physiologically normal puberty;

(2) "Pediatric" means a child who has not reached the age of eighteen (18);

(3) "SANE-A/A course" means a formal, organized course of instruction that is designed to prepare a registered nurse to perform forensic evaluation of an adult or adolescent sexual assault victim and to promote and preserve the victim's biological, psychological, and social health.

(4) "SANE course" means the SANE-A/A course and the SANE-P/A course.

(5) "SANE-P/A course" means a formal, organized course of instruction that is designed to prepare a registered nurse to perform forensic evaluation of a pediatric or adolescent sexual assault victim and to promote and preserve the victim's biological, psychological, and social health.

Section 2. SANE Course Approval Application.

(1) On the form Application for Initial or Continued SANE Course Approval, the applicant for approval of a SANE-A/A course or a SANE-P/A course shall submit evidence to the board of completion of the requirements for course approval that consists of the following documentation:

(a) Position description and qualifications of the nurse administrator of the SANE course;

(b) Qualifications and description of the faculty;

(c) Course syllabus;

(d) Course completion requirements;

(e) Tentative course presentation dates;

(f) Records maintenance policy; and

(g) Copy of certificate of course completion form.

(2) Nurse administrator of SANE course. A registered nurse, with current, active Kentucky licensure or a multistate licensure privilege pursuant to KRS 314.475, a baccalaureate or higher degree in nursing, and experience in adult and nursing education shall be administratively responsible for assessment, planning, development, implementation, and evaluation of the SANE course.

(3) Faculty qualifications. Faculty qualifications shall be consistent with the instructor qualifications set out in Sexual Assault Nurse Examiner (SANE) Education Guidelines. The name, title, and credentials identifying the educational and professional qualifications for each instructor shall be provided as part of the application.

(4) Course syllabus. The syllabus shall include:

(a) Course prerequisites, requirements, and fees;

(b) Course outcomes, which shall provide statements of observable competencies, which if taken as a whole, present a clear description of the entry level behaviors to be achieved by the learner;

(c) Unit objectives for an individual, which shall be stated in operational or behavioral terms with supportive content identified;

(d) Content as specified in subsection (6) of this section, which

shall be described in detailed outline format with corresponding lesson plans and time frame, and which shall be related to, and consistent with, the unit objectives, and support achievement of expected course outcomes;

(e) Teaching methods with the activities of both instructor and learner specified in relation to the content outline, and which shall be congruent with stated course objectives and content, and reflect the application of adult learning principles;

(f) Evaluation methods, which shall be clearly defined for evaluating the learner's achievement of course outcomes, and which shall include a process for annual course evaluation by students, providers, faculty, and administration; and

(g) Instructional or reference materials required, which shall be identified.

(5) Completion requirements. Requirements for successful completion of the SANE course shall be clearly specified and shall include demonstration of clinical competency. A statement of policy regarding a candidate who fails to successfully complete the course shall be included.

(6) The SANE-A/A course and the SANE-P/A course content shall be consistent with Sexual Assault Nurse Examiner (SANE) Education Guidelines.

(a) In addition to that content, the SANE-A/A course and the SANE-P/A course shall include:

1. Observing live or previously recorded criminal trials and meeting with the Commonwealth Attorney or a representative from the Commonwealth Attorney's office in order to gain an understanding of the trial process including testifying;

2. Meeting with the local rape crisis center and a rape crisis center victim advocate in order to gain an understanding of the services provided to victims by rape crisis centers and the role of an advocate;

3. Meeting with local law enforcement officers or investigators responsible for investigating reports of rape or sexual assault in order to gain an understanding of the investigative process;

4. Application of the Kentucky statewide medical protocol relating to the forensic and medical examination of an individual reporting sexual assault pursuant to KRS 216B.400(2) and (4); and

5. The victim's bill of rights, KRS 421.500 through 421.575.

(b) In addition to the requirements of paragraph (a) of this subsection, the SANE-P/A course shall include:

1. Principles of child development;

2. Techniques for acute evaluations;

3. An overview of Kentucky Child Advocacy Centers; and

4. An overview of KRS 431.600 through 431.660 which shall include information about multidisciplinary teams and their functions, model protocols approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse, and the role of peer review in child sexual abuse cases.

Section 3. (1) Contact Hour Credit For Continuing Education. The SANE course shall be approved for contact hour credit which may be applied to licensure requirements.

(2) Approval period. Board approval for a SANE course shall be granted for a four (4) year period.

(3) Records shall be maintained for a period of five (5) years, including the following:

(a) Provider name, date, and site of the course; and

(b) Participant roster, containing at a minimum the name, Social Security number, and license number for each participant.

(4) A participant shall receive a certificate of completion that documents the following:

(a) Name of participant;

(b) Title of course, date, and location;

(c) Provider's name; and

(d) Name and signature of authorized provider representative.

Section 4. Continued Board Approval of a SANE Course.

(1) An application for continued approval of a SANE course shall be submitted on the Application for Initial or Continued SANE Course Approval at least three (3) months prior to the end of the current approval period.

(2) A SANE course syllabus shall be submitted with the

Application for Initial or Continued SANE Course Approval.

(3) Continued approval shall be based on the past approval period performance and compliance with the board standards described in this administrative regulation.

Section 5. The board may deny, revoke, or suspend the approval status of a SANE course for violation of this administrative regulation.

Section 6. Appeal. If a SANE course administrator is dissatisfied with a board decision concerning approval and wishes a review of the decision, the procedure established in this section shall be followed.

(1) A written request for the review shall be filed with the board within thirty (30) days after the date of notification of the board action which the SANE course administrator contests.

(2) The board, or its designee, shall conduct a review in which the SANE course administrator may appear in person and with counsel to present reasons why the board's decision should be set aside or modified.

Section 7. Requirements for Sexual Assault Nurse Examiner (SANE) Credential.

(1) The applicant for the SANE-A/A or SANE-P/A credential shall:

(a) Hold a current, active registered nurse license in Kentucky or a multistate licensure privilege pursuant to KRS 314.475;

(b) Have completed a board approved SANE educational course or a comparable course;

1. The board or its designee shall evaluate the applicant's course to determine its course comparability; and

2. The board or its designee shall advise an applicant if the course is not comparable and specify what additional components shall be completed to allow the applicant to be credentialed;

(c) Complete the Sexual Assault Nurse Examiner Application for Credential;

(d) Pay the fee established in 201 KAR 20:240;

(e) Provide a criminal record check by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI);

(f) Use the FBI Applicant Fingerprint Card;

(g) Pay any required fee to the KSP and the FBI;

(h) Complete the criminal record check within six (6) months of the date of the application;

(i) Provide a certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(j) Provide a letter of explanation that addresses each conviction, if applicable.

(2) Upon completion of the application process, the board shall issue the appropriate SANE credential for a period ending October 31.

(3) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (1)(e) of this section and any conviction is addressed by the board.

Section 8. Renewal. (1) To renew the SANE-P/A or the SANE-A/A credential for the next period, each sexual assault nurse examiner shall complete at least five (5) contact hours of continuing education related to the role of the sexual assault nurse examiner or forensic nursing within each continuing education earning period. A provider of a board approved SANE course may offer continuing education related to the role of the sexual assault nurse examiner.

(2) Upon completion of the required continuing education, completion of the Annual Credential Renewal Application: SANE Credential with RN in Kentucky or Annual Credential Renewal Application: SANE with RN Compact License (Not Kentucky), as applicable, and payment of the fee established in 201 KAR 20:240, the appropriate SANE credential shall be renewed at the same time the registered nurse license is renewed.

(3) The five (5) contact hours may count toward the required

contact hours of continuing education for renewal of the registered nurse license.

(4) Failure to meet the five (5) contact hour continuing education requirement shall cause the SANE credential to lapse.

Section 9. Reinstatement. (1) If the SANE credential has lapsed for a period of less than four (4) consecutive registered nurse licensure periods, and the individual wants the credential reinstated, the individual shall apply to reinstate the credential by:

(a) Submitting the Sexual Assault Nurse Examiner Application for Credential;

(b) Paying the fee established in 201 KAR 20:240;

(c) Submitting evidence of earning the continuing education requirement referenced in Section 8(1) of this administrative regulation for the number of registered nurse licensure periods since the SANE credential lapsed;

(d) Providing a criminal record check by the KSP and FBI;

(e) Using the FBI Applicant Fingerprint Card;

(f) Paying any required fee to the KSP and the FBI;

(g) Completing the criminal record check within six (6) months of the date of the application;

(h) Providing a certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(i) Providing a letter of explanation that addresses each conviction, if applicable.

(2) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (1)(d) of this section and any conviction is addressed by the board.

(3) If the SANE credential has lapsed for more than four (4) consecutive licensure periods, the nurse shall complete a SANE course prior to reinstatement.

Section 10. The board shall obtain input from the Sexual Assault Response Team Advisory Committee concerning any proposed amendment to this administrative regulation as follows:

(1) The board shall send a draft copy of any proposed amendment to the co-chairs of the Sexual Assault Response Team Advisory Committee prior to approval by the board;

(2) The board shall request that comments on the proposed amendment be forwarded to the board's designated staff person within ninety (90) days; and (3) At the conclusion of that time period or upon receipt of comments, whichever is sooner, the board, at its next regularly scheduled meeting, shall consider the comments.

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

(a) "Application for Initial or Continued SANE Course Approval", 10/2018[, Kentucky Board of Nursing];

(b) "Sexual Assault Nurse Examiner Application for Credential", 10/2018[, Kentucky Board of Nursing];

(c) "Annual Credential Renewal Application: SANE Credential with RN in Kentucky", 2/2020 [10/2018, Kentucky Board of Nursing];

(d) "Annual Credential Renewal Application: SANE with RN Compact License (Not Kentucky)", 2/2020 [10/2018, Kentucky Board of Nursing]; and

(e) "Sexual Assault Nurse Examiner (SANE) Education Guidelines", 2018 [2015], International Association of Forensic Nurses.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:00 a.m. to 4:30 p.m.

DINA BYERS, President

APPROVED BY AGENCY: April 16, 2020.

FILED WITH LRC: April 20, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 27, 2020 at 10:00 a.m. (EST) in the office of the Kentucky

Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m.) July 31, 2020. 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: Morgan Ransdell, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3339, fax (502) 429-1248, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Morgan Ransdell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets standards for Sexual Assault Nurse Examiner programs and credential.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.142.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing standards.

(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.

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

(a) How the amendment will change this existing administrative regulation: Two application forms have been updated.

(b) The necessity of the amendment to this administrative regulation: The application forms needed updating.

(c) How the amendment conforms to the content of the authorizing statutes: By updating the forms.

(d) How the amendment will assist in the effective administration of the statutes: By updating the forms.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for a SANE credential, number unknown.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will use the updated form.

(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 other than the application fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Their application will be processed.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No

increase is needed.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

BOARDS AND COMMISSIONS

Board of Medical Imaging and Radiation Therapy (Amendment)

201 KAR 46:010. Definitions for 201 KAR Chapter 46.

RELATES TO: KRS 311B.020

STATUTORY AUTHORITY: KRS 311B.010, 311B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.010 and 311B.050 require the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to regulate medical imaging, radiation therapy, and related occupations. This administrative regulation establishes definitions for terms used in 201 KAR Chapter 46.

Section 1. Definitions. (1) "Accredited educational program" means an educational program accredited by the Joint Review Committee on Education in Radiologic Technology (JRCERT), the Joint Review Committee on Educational Programs in Nuclear Medicine Technology (JRCNMT), or other accrediting agencies recognized by the American Registry of Radiologic Technologists (ARRT), which have been approved by the board.

(2) "Advanced imaging professional" means an individual who holds credentialing by the American Registry of Radiologic Technologists (ARRT) or by the Nuclear Medicine Technology Certification Board (NMTCB) as a registered radiologist assistant (R.R.A.) or nuclear medicine advanced associate (NMAA).

(3) "Alternate course of study" means an independent course of study that qualifies an individual to take an examination approved by the board.

(4) "Authorized user" is defined by KRS 311B.020(4).

(5) "Board" is defined by KRS 311B.020(5).

(6) "Clinical education" means the component of the

educational program that provides for supervised, competency-based, clinical education and experience.

(7) "Computed tomography" or "CT" means the process of using specialized radiation producing equipment to create cross-sectional images of any part of the body.

(8) "Computed tomography technologist" or "CT technologist" means an individual who has obtained a post-primary certification in computerized tomography from the American Registry of Radiologic Technologists (ARRT) or the Nuclear Medicine Technology Certification Board (NMTCB).

(9) "Continuing education" is defined by KRS 311B.020(7).

(10) "Continuing education unit" or "CEU" means fifty (50) contact minutes of participation in a continuing education experience completed by:

(a) Attendance at a professional meeting;

(b) Documenting completed, approved independent study; or

(c) Documenting completed academic courses applicable to health care, medical imaging, radiation therapy, or related courses.

(11) "Contrast procedure" means a diagnostic or therapeutic procedure performed while administering contrast media into the human body to visualize anatomy not otherwise demonstrated on an image receptor.

(12) "Course of study" means a curriculum in radiologic technology, nuclear medicine technology, the advanced imaging profession, limited x-ray machine operation, or radiation therapy approved by the board.

(13) "Didactic education" means the component of the educational program that provides formal instruction with specific objectives and methods for assessing the student's progress for entry-level competency.

(14) "Direct supervision" means supervised by, and in the physical presence of, a licensed practitioner of the healing arts.

(15) "Educational program" means a board-approved, accredited educational program or limited x-ray machine operator program.

(16) "Facility" means a hospital, outpatient department, clinic, radiology practice, mobile unit, or office of a physician or portion thereof, in which medical imaging or radiation therapy are performed.

(17) "Indirect supervision" means supervised by a licensed practitioner of the healing arts who is immediately available in person or remotely via telecommunications device [in—the individual's place of employment].

(18) "License" means the document issued to a licensee to work as an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator in Kentucky.

(19) "Licensed practitioner" or "licensed practitioner of the healing arts" is defined by KRS 311B.020(8).

(20) "Licensee" means an individual licensed to perform the duties of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator.

(21) "Licensure" means the process by which a license is issued by the board pursuant to 201 KAR Chapter 46 and in accordance with KRS Chapter 311B.

(22) "Limited radiographic procedures" means the following procedures:

(a) Radiography of the thorax, lungs, and ribs;

(b) Radiography of the abdomen;

(c) Radiography of the skull and facial structures;

(d) Radiography of the upper and lower extremities;

(e) Radiography of the pectoral girdle, hips, and pelvis;

(f) Radiography of the cervical, thoracic, and lumbar spines[Routine chest and thorax;

(b) Cranium;

(c) Extremity;

(d) Podiatric;

(e) Vertebral column radiography]; and

(g) [(f)] Bone densitometry procedures.

(23) "Limited x-ray machine operator" is defined by KRS 311B.020(9).

(24) "Medical Imaging" means producing visual images of the human body utilizing various types of energy and technologies to determine the presence of disease and injury. Medical imaging is used for diagnostic, screening, treatment and monitoring purposes.

(25) "Medical imaging technologist" is defined by KRS 311B.020(10).

(26) "National organization" is defined by KRS 311B.020 (11).

(27) "Nuclear medicine advanced associate" means an individual certified by the Nuclear Medicine Technology Certification Board (NMTCB) as a nuclear medicine advanced associate (NMAA) who works under the supervision of a radiologist or nuclear medicine physician, in accordance with practice standards.

(28) "Nuclear medicine technologist" is defined by KRS 311B.020(12).

(29) "Nuclear medicine technology" means technology applied by a nuclear medicine technologist utilizing radioactive material and with the nuclear medicine technologist being under the supervision of an authorized user.

(30) "PET" means the positron emission tomography.

(31) "Positron emission tomography" means the utilization of positron-emitting radioactive material for medical imaging under the supervision of an authorized user.

(32) "Practice standards" means the standards established by board-approved professional organizations that define the practice expectations of individuals within the professions.

(33) "Primary discipline" means radiography, nuclear medicine, and radiation therapy.

(34) "Professional educational guidelines" means curriculum and educational standards established by national organizations and approved by the board.

(35) "Program director" means an individual designated by a sponsoring institution to assure that the educational programs for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator are properly conducted.

(36) "Provisional nuclear medicine technology license" means a license issued by the board to an individual participating in the alternate nuclear medicine course of study approved by the board.

(37) "Provisional training license" means a license issued to a nuclear medicine technologist or a radiation therapist pursuing post-primary certification in computed tomography or a license issued to a radiographer or radiation therapist pursuing post-primary certification in PET.

(38) "Radiation safety officer" means an individual who has the training, knowledge, and responsibility to apply appropriate radiation safety practices.

(39) "Radiation therapist" is defined by KRS 311B.020(15).

(40) "Radiation therapy" means the therapeutic administration of ionizing radiation by a radiation therapist.

(41) "Radioactive materials" means a solid, liquid, or gas that emits ionizing radiation spontaneously.

(42) "Radiographer" is defined by KRS 311B.020(16).

(43) "Radiography" means:

(a) The utilization and administration of ionizing radiation to produce medically relevant images for the diagnosis of injury or disease; and

(b) Includes a comprehensive scope of diagnostic-radiologic procedures.

(44) "Radiologist assistant" means an individual certified by the American Registry of Radiologic Technologists (ARRT) as a registered radiologist assistant (R.R.A.) who works under the supervision of a radiologist, in accordance with supervision guidelines jointly established by the American College of Radiology (ACR), the American Society of Radiologic Technologists (ASRT), and the ARRT.

(45) "Radionuclide" means a radioactive element or a radioactive isotope.

(46) "Radiopharmaceuticals" means radioactive drugs used for the diagnosis and treatment of disease.

(47) "Scope of practice" means the parameter of the specific practice.

(48) "Source of radiation" means a radioactive material, device, or equipment emitting or capable of producing ionizing radiation.

(49) "Sponsoring institution" means an institution recognized by the board to provide a post-secondary educational program in medical imaging, limited x-ray machine operation, radiation therapy, or advanced imaging professions.

(50) "Student" means an individual enrolled in a board-recognized educational program.

(51) "Supervision of students" means supervised by a licensed practitioner of the healing arts or a licensee in the appropriate field of practice who directs the activity of students.

(52) "Temporary license" means a nonrenewable license issued by the board as established in 201 KAR Chapter 46 permitting an individual to practice for a specified period of time.

(53) "Therapeutic procedures" means medical treatments that can help diagnose, cure, or treat a patient's condition.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines essential terms applicable to the Medical Imaging profession and regulatory process.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation defines terms used in 201 KAR Chapter 46.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes definitions used in the requirements for practice of medical imaging, radiation therapy and related occupations.

(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 updates the definition of computed tomography to allow additional certification examination to be considered by the board.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to address other changes in the regulations filed as well as to allow more individuals to become licensed in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the establishment of definition.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure all terms of art used in the regulation has an appropriate definition.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 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: No action is required. The amendment merely defines the terms for 201 KAR Chapter 46.

(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 and licensees benefit by having the definitions of terms used within the regulations to clarify the regulations and put the licensee on clear notice.

(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 changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licenses and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this 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 directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the definitions apply equally to all persons.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.010 to 311B.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. 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 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

BOARDS AND COMMISSIONS

Board of Medical Imaging and Radiation Therapy (Amendment)

201 KAR 46:035. Practice standards, scopes of practice, and ethical standards.

RELATES TO: 311B.080

STATUTORY AUTHORITY: KRS 311B.050(2), 311B.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(2) requires the Kentucky Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.080 requires the board to recognize and enforce national practice standards, scopes of practice, and ethical standards. This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.

Section 1. Applicability. A licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision as specified by a licensee's practice standards, by a licensee's scope of practice, or in the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures as listed in Section 3 of this administrative regulation.

Section 2. If a licensee's practice standards, a licensee's scope of practice, or the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures fails to specify who may provide direct or indirect supervision, a licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision of a licensed practitioner of the healing arts.

Section 3. Practice Standards. A licensee shall perform according to practice standards of the discipline for which the licensee holds a credential, as established by the American Society of Radiologic Technologists (ASRT), the American College of Radiology (ACR), the American Association of Physicists in Medicine (AAPM), and the Society of Nuclear Medicine and Molecular Imaging (SNMMI) and incorporated by reference. These standards include the:

- (1) Radiography Practice Standards;
- (2) Nuclear Medicine Technologist Scope of Practice and Performance Standards;
- (3) Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards;
- (4) Scope of Practice for the Nuclear Medicine Advanced Associate;

- (5) Radiation Therapy Practice Standards;
- (6) Bone Densitometry Practice Standards;
- (7) Cardiac Interventional and Vascular Interventional Technology Practice Standards;
- (8) Computed Tomography Practice Standards;
- (9) Limited X-ray Machine Operator Practice Standards;
- (10) Mammography Practice Standards;
- (11) Radiologist Assistant Practice Standards;
- (12) ACR ASRT Joint-Policy Statement-Radiologist Assistant: Roles and Responsibilities;
- (13) ACR-AAPM Technical Standard for Management of the Use of Radiation in Fluoroscopic Procedures;
- (14) The American Registry of Radiologic Technologists' Code of Ethics; and
- (15) The Nuclear Medicine Technology Certification Board's Code of Ethics; and
- (16) The Practice Standards for Medical Imaging and Radiation Therapy, Glossary.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Radiography Practice Standards", revised June 23[25], 2019[2047];
- (b) "Nuclear Medicine Technologist Scope of Practice and Performance Standards", June 2017[2046];
- (c) "Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards", revised January 26, 2013;
- (d) "Scope of Practice for the Nuclear Medicine Advanced Associate", created 2009;
- (e) "Radiation Therapy Practice Standards", revised June 23[25], 2019[2047];
- (f) "Bone Densitometry Practice Standards", revised June 23[25], 2019[2047];
- (g) "Cardiac Interventional and Vascular Interventional Technology Practice Standards", revised June 23[25], 2019[2047];
- (h) "Computed Tomography Practice Standards", revised June 23[25], 2019[2047];
- (i) "Limited X-ray Machine Operator Practice Standards", revised June 23[25], 2019[2047];
- (j) "Mammography Practice Standards", revised June 23[25], 2019[2047];
- (k) "Radiologist Assistant Practice Standards", revised June 23[25], 2019[2047];
- (l) "ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities", May 2003;
- (m) "ACR-AAPM Technical Standard for Management of the Use of Radiation in Fluoroscopic Procedures", revised 2018[2043] (Resolution 44);
- (n) The American Registry of Radiologic Technologists' Code of Ethics, (September 1, 2019[November 15, 2017]);
- (o) The Nuclear Medicine Technology Certification Board's Code of Ethics, (November 15, 2017); and
- (p) The Practice Standards for Medical Imaging and Radiation Therapy, Glossary, (June 25, 2017); and

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

- (a) American Society of Radiologic Technologists, 15000 Central Ave. SE Albuquerque, NM 87123-3909, <https://www.asrt.org/main/standards-regulations/practice-standards/practice-standards>;
- (b) Society for Nuclear Medicine and Molecular Imaging, 1850 Samuel Morse Drive Reston, Virginia 20190, <http://www.snmmi.org>;
- (c) The American Registry of Radiologic Technologists' Code of Ethics, 125 Northland Drive, Saint Paul, Minnesota 55120, <https://www.arrt.org/docs/default-source/Governing-Documents/code-of-ethics.pdf?sfvrsn=10>;
- (d) The Nuclear Medicine Technology Certification Board, 3558 Habersham at Northlake, Building I, Tucker, Georgia 30084, <https://www.nmtcb.org/policies/ethics.php>; or
- (e) The Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday

through Friday, 8:00 a.m. to 4:30 p.m.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.

(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 updates practice standards and scopes of practice, which were updated by the American Registry of Radiologic Technologists and the Society for Nuclear Medicine and Molecular Imaging.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to maintain updated

standards of practice and scopes of practice for the medical imaging and radiation therapy professions.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations to recognize and enforce national practice standards, scopes of practice, and ethical standards.

(d) How the amendment will assist in the effective administration of the statutes: This amendment incorporates updates to the practice standards and scopes of practice that are to be recognized and enforced by statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 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: No action is required. The amendment updates practice standards and scopes of practice for medical imaging and radiation therapy professions.

(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 and licensees benefit by having updated practice standards and scopes of practice for medical imaging and radiation therapy professions.

(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 changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No new or increase in fees 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 directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the definitions apply equally to all persons.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.010 to 311B.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. 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 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 (+/-): None.

Expenditures (+/-): None.

Other Explanation: None

BOARDS AND COMMISSIONS
Board of Medical Imaging and Radiation Therapy
(Amendment)

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

RELATES TO: KRS 311B.020, 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.080, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist. This administrative regulation establishes requirements for licensure, renewal, and reinstatement.

Section 1. Eligibility for an Advanced Imaging Professional, a Medical Imaging Technologist, a Radiographer, a Radiation Therapist, and a Nuclear Medicine Technologist License. A person shall not be eligible for a license pursuant to this administrative regulation for diagnostic imaging or therapeutic purposes unless the person has:

(1) Satisfactorily passed the national examination administered by the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board examination; [and]

(2) Satisfactorily completed an accredited educational program; and

(3) Maintained current active status of certification and registration with ARRT or NMTCB.

Section 2. Application for Initial License.

(1) An applicant shall submit:

(a) A completed and signed application KBMIRT Form 1;

(b) A nonrefundable initial application and license fee as established by 201 KAR 46:020, Section 1;

(c) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;

(d) A copy of a government-issued photo ID;

(e) Documentation of active registration or certification with the ARRT or NMTCB; and

(f) Verification of graduation from an accredited educational program.

Section 3. Applicant from an Unaccredited Educational Program. If an applicant qualifies for licensure under KRS 311B.100(3), the applicant shall submit and satisfy the requirements of Section 2(1)(a) through (e) of this administrative

regulation and shall submit proof:

(1) Of an active valid license or certificate from another jurisdiction's regulatory board to practice as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist and is in good standing;

(2) Of certification or licensure by a national organization recognized by the board;

(3) That the applicant has not been disciplined as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist by any jurisdiction or national organization that has issued a license or certificate to the applicant;

(4) Of a minimum of five (5) years of work experience as a certified or licensed advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist; and

(5) That the applicant maintained continuing education requirements during the applicant's period of licensure or certification, which includes copies of any continuing education certificates received for attending from the sponsor.

Section 4. The issued license shall identify the licensee as an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, or a nuclear medicine technologist. The medical imaging technologist license shall also identify any ARRT or NMTCB disciplines awarded to the licensee.

Section 5. The license shall expire annually on the last day of the licensee's birth month. If a license is first issued to an individual less than six (6) months before the individual's birth month, the license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the following calendar year.

Section 6. Renewal of License. To renew a license, the licensee shall submit:

(1) KBMIRT Form 2;

(2) Verification of current active status with the ARRT or NMTCB; and

(3) The renewal license fee as established by 201 KAR 46:020, Section 2.

Section 7. Reinstatement of Lapsed License. (1) A licensee who has allowed the license to lapse up to twelve (12) months shall be eligible to be reinstated upon:

(a) Submission of KBMIRT Form 2;

(b) Verification of current active status with the ARRT or NMTCB;

(c) Submission of documentation of twenty-four (24) hours of approved continuing education biennially; and

(d) [(e)] The payment of reinstatement and renewal fees as established by 201 KAR 46:020, Sections 2 and 7.

(2) A licensee whose license has lapsed for more than twelve (12) months shall submit:

(a) Verification of current active status with the ARRT or NMTCB;

(b) KBMIRT Form 1;

(c) Continuing education KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, that documents twenty-four (24) hours of approved continuing education;

(d) The payment of nonrefundable initial application and license fee and reinstatement fee as established by 201 KAR 46:020, Sections 1 and 7;

(e) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(f) A copy of a government-issued photo ID.

Section 8. Reinstatement of Revoked License. An applicant seeking reinstatement after a license revocation shall follow the same process as a new applicant as required under KRS 311B.100, 311B.110, and this administrative regulation.

Section 9. Temporary License. The board may, upon completion of Form KBMIRT 3, as incorporated by reference in 201 KAR 46:045, and payment of the fee established in 201 KAR 46:020, Section 3, issue a temporary license to an applicant who has successfully completed an approved course of study in radiography, nuclear medicine technology, radiation therapy, or an advanced imaging profession and meets the other requirements of 201 KAR 46:045 other than having taken the required examination. A temporary license shall be effective for up to one (1) year only and shall not be renewable. Upon certification, a temporary license may be converted to a permanent license as described in 201 KAR 46:045, Section 2. A temporary license shall expire upon issuance of a permanent license.

Section 10. Continuing Education Audit Process. (1) The board shall select a sample of licensees to audit for continuing education compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall provide the board with a copy of his or her certificate or records of completion.

(5) Failure to comply with an audit may result in nonrenewal, suspension, or revocation of license.

Section 11. Contrast Procedures. Only individuals holding a license pursuant to this administrative regulation shall perform diagnostic imaging or radiation therapy procedures regulated by KRS Chapter 311B at facilities where contrast studies are performed.

Section 12. CT Training for Nuclear Medicine Technologists and Radiation Therapists. Individuals who are licensed in the primary discipline of nuclear medicine or radiation therapy, are certified by the ARRT or NMTCB, and are seeking post-primary certification in computed tomography (CT) may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in CT shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section 13. PET Training for Radiographers and Radiation Therapists. Individuals who are licensed in the primary discipline of radiography or radiation therapy, are certified by the ARRT, and are seeking post-primary certification in positron emission tomography (PET) may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section 14. Applications for licensure shall be filed with the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) KBMIRT Form 1, "License Application-Medical Imaging or Radiation Therapy", March 2020[2019]; and

(b) KBMIRT Form 2, "License Renewal Application-Medical Imaging or Radiation Therapy", March 2020[2019].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for eligibility for licensure, and the initial and renewal application process.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the standards and process for application and renewal of license issued by the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the procedures for the board to issue and renew the licenses of duly qualified applicants.

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

(a) How the amendment will change this existing administrative regulation: The amendment allows the Board to update the applications associated with initial license, renewal, and reinstatement.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the applications to include additional information on the applications.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will update the renewal application as well as the initial license application.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 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: Individuals who seek to be licensed or have an issued license to be renewed must submit an application setting forth the individual's qualifications.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There are no additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities: There are no additional costs for complying with the amendment.

(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 changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No new costs will be incurred by the changes.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new costs or increased fees will be incurred by the changes.

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation applies similarly to similarly situated licensees and applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 311B.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 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 additional cost to administer the proposed amendment.

(d) How much will it cost to administer this program for subsequent years? NA

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA

BOARDS AND COMMISSIONS

Board of Medical Imaging and Radiation Therapy (Amendment)

201 KAR 46:050. Provisional training license for medical imaging technologists, radiographers, nuclear medicine technologists, and radiation therapists.

RELATES TO: KRS 311B.050, 311B.100(2), 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.100(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B and to regulate the licensure of medical imaging technologists, advanced imaging professionals, and radiation therapists other than a licensed practitioner of the healing arts. KRS 311B.100(2) requires the board to establish licensure qualifications. This administrative regulation establishes procedures for the provisional licensure of nuclear medicine technologists and radiation therapists who are seeking post-primary certification in computed tomography (CT) and radiographers or radiation therapists who are seeking post-primary certification in positron emission tomography (PET) to gain clinical competency.

Section 1. Eligibility for Provisional CT Training License. An individual who is licensed in a primary discipline of nuclear medicine or radiation therapy, certified by the American Registry of Radiologic Technologists (ARRT) or the Nuclear Medicine Technology Certification Board (NMTCB), and who is seeking post-primary computed tomography certification may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in computed tomography shall submit a Provisional License Application. A provisional license shall expire twenty-four (24) months from the date of issuance.

Section 2. Eligibility for Provisional PET Training License. An individual who is licensed in a primary discipline of radiography or radiation therapy, certified by the ARRT, and who is seeking post-primary PET certification may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit a Provisional License Application. A provisional license shall expire twenty-four (24) months from the date of issuance.

Section 3. Application for Provisional Training License. A licensee shall submit a:

(1) Completed and signed KBMIRT Form 7 Provisional License Application; and

(2) Nonrefundable provisional training license fee as mandated in 201 KAR 46:020, Section 4.

Section 4. Upon completion of post-primary ARRT or NMTCB computed tomography or NMTCB (PET) certification, a provisional licensee shall submit documentation of registry or certification and shall receive an updated license.

Section 5. If a provisional training licensee has not submitted documentation of appropriate registry or certification prior to expiration of the provisional license, the licensee shall reapply for a new provisional license pursuant to the process established in this administrative regulation and pay the nonrefundable provisional training license fee mandated in 201 KAR 46:020, Section 4. A provisional license may be renewed once.

Section 6. Incorporation by Reference. (1) "Provisional License Application", KBMIRT Form 7, March 2020~~[April—2015]~~, is incorporated by reference.

(2) This material may be inspected, copied or obtained, subject

to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the provisional licensure of nuclear medicine technologists and radiation therapists who are seeking post-primary certification in computed tomography (CT) and radiographers or radiation therapists who are seeking post-primary certification in positron emission tomography (PET) to gain clinical competency.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes procedures for the provisional licensure of nuclear medicine technologists and radiation therapists who are seeking post-primary certification in computed tomography (CT) and radiographers or radiation therapists who are seeking post-primary certification in positron emission tomography (PET) to gain clinical competency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes procedures for the provisional licensure of nuclear medicine technologists and radiation therapists who are seeking post-primary certification in computed tomography (CT) and radiographers or radiation therapists who are seeking post-primary certification in positron emission tomography (PET) to gain clinical competency.

(2) If this is an amendment to an existing administrative

regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment provides for another pathway for licensing an individual for computed tomography; update to include CT certification examination by NMTCB.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary will allow the board to accept the NMTCB's CT certification exam which will allow more individuals to become licensed in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the authority to establish qualifications for licensing medical imaging and radiation therapy professionals through the promulgation of administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure qualifications of medical imaging and radiation therapy professionals is relevant to updated certification exams.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 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: No action is required. This amendment will allow additional means for an individual to become qualified to practice as a computed tomography technologist.

(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: This amendment will allow additional means for an individual to become qualified to practice as a computed tomography technologist.

(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 changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

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

(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? Explain why or why not. Tiering is not applied because the regulation applies similarly to similarly situated licensees and applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.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 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 additional cost to administer the proposed amendment.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to administer the proposed 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

BOARDS AND COMMISSIONS **Board of Medical Imaging and Radiation Therapy** **(Amendment)**

201 KAR 46:060. Continuing education requirements.

RELATES TO: KRS 311B.050, 311B.110

STATUTORY AUTHORITY: KRS 311B.050(2), (4), 311B.110(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(2) requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.050(4) and 311B.110(6) require the board to determine and enforce continuing education requirements and establish guidelines for the approval of continuing education. The board is authorized by KRS 311B.110(3) to require that all licensees obtain continuing education for ongoing knowledge of current practices in radiation safety and clinical procedures prior to licensure renewal. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the approval of continuing education courses.

Section 1. Mandatory Continuing Education Units.

(1) Medical imaging technologists, advanced imaging professionals, radiographers, nuclear medicine technologists, and radiation therapists shall obtain a minimum of twenty-four (24) continuing education units per biennium.

(2) Limited X-Ray machine operators shall obtain a minimum of twelve (12) continuing education units per biennium.

(3) A continuing education unit shall be earned by participating in fifty (50) contact minutes in an approved continuing education program.

Section 2. Methods of Acquiring Continuing Education.

(1) Continuing education units applicable to the renewal of a license shall be directly relevant to the professional growth and development of the medical imaging technologist, radiation therapist, advanced imaging professional, radiographer, nuclear medicine technologist, or limited x-ray machine operator.

(2) Continuing education units may be earned by completing any of the following educational activities:

(a) Academic courses relevant to the radiologic sciences or patient care and is offered by a post-secondary educational institution accredited by a mechanism recognized by the American Registry of Radiologic Technologists (ARRT) or the Nuclear

Medicine Technologist Certification Board (NMTCB). Relevant courses in the biologic sciences, physical sciences, radiologic sciences, health and medical sciences, social sciences, communication (verbal and written), mathematics, computers, management, or education methodology shall be accepted. Some subject areas that shall not be applicable include courses in astronomy, fine arts, geology, geography, history, music, philosophy, and religion;

(b) Continuing education units approved by a professional organization recognized by the board or designated as a Recognized Continuing Education Evaluation Mechanism (RCEEM); or

(c) Continuing education units offered by other individuals, organizations, or institutions that have been approved by the board.

(3) Academic course credit equivalency for continuing education units shall be based on one (1) credit hour is equal to fifteen (15) continuing education units.

(4) A presenter may earn for the development of a continuing education presentation a maximum of twice the continuing education units awarded for the delivery of the presentation. The presenter shall also receive the continuing education approved for attendance at the presentation.

(5) Credit shall not be issued for repeated instruction of the same course within the biennium.

Section 3. Procedure for Preapproval of Continuing Education Programs.

(1) A continuing education program may be approved by two (2) mechanisms:

(a) By applying and receiving approval from a RCEEM; or
(b) By applying and receiving approval from the board.

(2) For board approval of continuing education programs, a person, agency, or company, "CE Sponsor", shall:

(a) Submit KBMIRT Form 9, Continuing Education Program Approval Request Form at least twenty (20) business days in advance of the date of the offering; [and]

(b) Submit the continuing education approval fee as established by 201 KAR 46:020, Section 13;

(c) Provide program participant(s) with documentation of participation such as a certificate of completion;

(d) Participate in the audit of approved continuing education programs including presentation evaluations, attendance, and continuing education participation documentation, as requested by the board; and

(e) Comply with policies set forth by the board, the ARRT, and NMTCB regarding continuing education programs.

(3) A continuing education activity shall be approved if the board determines that the activity is appropriate. The criteria as established in paragraphs (a) through (d) of this subsection shall be used by the board to determine the preapproval of a continuing education program.

(a) The activity shall enhance knowledge and skills associated with professional performance.

(b) It shall pertain to services provided to patients, the public, or medical profession by an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator.

(c) The presenter shall submit a curriculum vitae, an abstract, the objectives, and an outline of the presentation.

(d) The objectives shall be obtainable for the time frame, outline, and scope of the presentation.

Section 4. Responsibilities and Reporting Requirements of Licensee. A licensee shall be responsible for obtaining required continuing education units and submit documents only if requested by the board. Each licensee shall maintain all documentation verifying successful completion of continuing education units for the current and prior biennium. Documentation shall include:

(1) Official transcripts for completed academic courses;

(2) A copy of the program showing an individual as a presenter of an approved continuing education program; or

(3) Completion certificates or cards for continuing education programs.

Section 5. Audit Procedures. (1) The board shall audit a random selection of twenty-five (25) percent of limited x-ray machine operator licensees and ten (10) percent of all other licensees per year and notify the randomly-selected licensees.

(2) Each licensee selected for audit shall furnish documentation of completed continuing education units on KBMIRT Form 8, Licensee Continuing Education Documentation Form, for the identified time frame, and provide the board with a copy of the certificates or records of completion.

(3) Failure to comply with an audit may result in non-renewal, suspension or revocation of license.

Section 6. Temporary Licensees. Continuing education requirements shall not apply to the holders of a temporary license.

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

(a) KBMIRT Form 9, "Continuing Education Program Approval Request Form", March 2020[2015]; and

(b) KBMIRT Form 8, "Licensee Continuing Education Documentation Form", March 2020[2015].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes guidelines for the approval of continuing education, delineates the requirements for continuing education, and prescribes methods and standards for the approval of continuing education courses.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures;

issuance, renewal, and revocation of licenses; the establishment of a reasonable scheduled of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes guidelines for the approval of continuing education, delineates the requirements for continuing education, and prescribes methods and standards for the approval of continuing education courses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 311B.050(4) and KRS 311B.110(6) require the Board to determine and enforce continuing education requirements and establish guidelines for the approval of continuing education. KRS 311B.110(3) requires that all licensees obtain continuing education for ongoing knowledge of current practices in radiation safety and clinical procedures prior to licensure renewals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes guidelines for the approval of continuing education, delineates the requirements for continuing education, and prescribes methods and standards for the approval of continuing education courses.

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

(a) How the amendment will change this existing administrative regulation: The amendment provides clarity to the continuing education audit process and further provides details of enforcement for non-compliance.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide additional clarity and details to the continuing education audit process.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding continuing education.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure clear understanding of requirements for continuing education.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 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: No action is required. The amendment merely clarifies the continuing education requirements.

(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 and licensees benefit by having the continuing education requirements clarified.

(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 changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No 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 any fees or directly or

indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the continuing education requirements apply equally to licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.010 to KRS 311B.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. 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 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 (+/-): None

Expenditures (+/-): None

Other Explanation: None

BOARDS AND COMMISSIONS

Board of Medical Imaging and Radiation Therapy (Amendment)

201 KAR 46:070. Violations and enforcement.

RELATES TO: KRS 311B.100, 311B.120, 311B.150, 311B.160, 311B.170, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.120, 311B.180, 311B.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.120 and 311B.190 require the board to promulgate administrative regulations to establish appropriate fees and penalties for violations. KRS 311B.180 requires the board to assess penalties against an individual or licensee who performs diagnostic or therapeutic procedures without a valid license. This administrative regulation establishes uniform enforcement procedures regarding the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator and penalties for violation of licensure requirements.

Section 1. Denial, Revocation, and Suspension of Licenses.

(1) The board may deny, revoke, or suspend the license of a licensee in accordance with KRS 311B.160.

(2) A licensee shall comply with an order of the board.

(3) An order of the board in subsection (2) of this section shall

include items such as discovery orders, requests for information, subpoenas, requests for attendance before the board, and responses to complaints.

Section 2. Hearings.

(1) The board shall notify the licensee in accordance with KRS 311B.170(1) and (2).

(2) A licensee to whom a notice or order is directed shall comply with KRS 311B.170(3) to avoid license revocation.

(3) The board shall issue the licensee a notice of proposed action in accordance with 201 KAR 46:090.

(4) A licensee may request a conference and appeal the board's action in accordance with KRS 311B.170(5) and 201 KAR 46:090.

Section 3. Penalties.

(1)(a) The board shall assess civil penalties in accordance with KRS 311B.180 and 311B.190 against an individual who performs diagnostic or therapeutic procedures without valid licensure.

(b) The board shall investigate an allegation that an individual performed a diagnostic or therapeutic procedure without valid licensure in accordance with 201 KAR 46:090.

(c) The board shall only assess a civil penalty after confirmation through one (1) of the means enumerated in KRS ~~311B.180~~~~(341.180)~~(2).

(2) An individual who performs a diagnostic or therapeutic procedure without valid licensure shall be assessed a civil penalty of fifty (50) dollars per day that the procedure occurs.

(3) Civil penalties double the amount assessed against an individual shall be assessed against the employer of the individual without a valid license pursuant to KRS 311B.180.

(4) Any person or employer assessed a civil penalty may request a hearing as specified in 201 KAR 46:090, Section 6.

(5)(a) An individual who performs diagnostic or therapeutic procedures without valid licensure shall be subject to a civil penalty of no more than \$1,500.

(b) An employer of an individual without a valid license shall be subject to a civil penalty of no more than \$3,000.

(6) For each day an individual performs a diagnostic or therapeutic procedure without valid licensure if the range is:

(a) One (1) to five (5) days, the individual shall receive a five (5) day suspension;

(b) Six (6) to twenty-nine (29) days, the individual shall receive a suspension for each day a procedure is performed; and

(c) Thirty (30) days or more, the individual receives a forty-five (45) day suspension.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes uniform enforcement procedures regarding the licensure of medical imaging and radiation therapy professionals and establishes penalties for violation of licensure requirements.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including, but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants, and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes uniform enforcement procedures regarding the licensure of medical imaging and radiation therapy professionals and establishes penalties for violation of licensure requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation establishes uniform enforcement procedures regarding the licensure of medical imaging and radiation therapy professionals and establishes penalties for violation of licensure 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: The amendment updates a statutory reference within the text that was errant in Section 3(c).

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to correct a typo in the text in Section 3(c).

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations to establish appropriate fees and penalties for violations as well as assess penalties against an individual or licensee who performs diagnostic or therapeutic procedures without a valid license.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will correct an error in the referenced statute in Section 3(c).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 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: No action is required. The amendment merely corrects a typo in Section 3(c).

(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: This amendment corrects a typo.

(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 changes.

(b) On a continuing basis: No new costs will be incurred by the

changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No 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: The amendment does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the amendment corrects a typo.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.010 to 311B.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. 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 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 (+/-): None

Expenditures (+/-): None

Other Explanation: None

BOARDS AND COMMISSIONS

Board of Medical Imaging and Radiation Therapy
(Amendment)

201 KAR 46:081. Limited X-Ray machine operator.

RELATES TO: KRS 311B.020, 311B.150, 311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for a limited x-ray machine operator. This administrative regulation

establishes the requirements for the licensure of a limited x-ray machine operator.

Section 1. Applicability.

(1) This administrative regulation shall apply to individuals who perform limited diagnostic radiography while under the direct supervision or indirect supervision of a licensed practitioner of the healing arts.

(2) Limited diagnostic radiography shall include routine chest and thorax, cranium, extremity, podiatric, vertebral column radiography, and bone densitometry procedures.

Section 2. Limited Licensee Employment Prohibition. An individual who holds a limited license shall not be employed as an operator of a source of radiation at a facility where contrast studies, fluoroscopy, mammography, computed tomography, magnetic resonance imaging, bedside radiography, nuclear medicine, positron emission tomography, or radiation therapy procedures are performed.

Section 3. Pathway to the Limited X-ray Machine Operator License. An applicant shall complete an approved postsecondary educational program that meets the American Society of Radiologic Technologists (ASRT) Limited X-Ray Machine Operator Curriculum requirements. An individual shall complete a formal education program for limited x-ray machine operators approved by the board.

Section 4. Application for Temporary Limited X-ray Machine Operator License.

(1) An applicant who has completed a formal educational program shall submit:

(a) A completed and signed application Form KBMIRT Form 5;

(b) A nonrefundable, non-transferrable temporary limited x-ray machine operator application and license fee as mandated in 201 KAR 46:020, Section 5;

(c) The satisfactory results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(d) A copy of a government-issued photo ID.

(2) The temporary limited x-ray machine operator license shall be effective for up to one (1) year from date of program completion and shall not be renewable.

(3) Upon completion of the limited x-ray machine operator training program, individuals shall:

(a) Apply for the limited scope radiography exam; and

(b) Submit the nonrefundable, non-transferrable limited x-ray machine operator examination fee as mandated in 201 KAR 46:020, Section 9.

(4) ~~An individual shall [if a temporary licensee has not] successfully pass[passed] the American Registry of Radiologic Technologists (ARRT) administered limited scope radiography exam within one calendar year of program completion and prior to the expiration date of the temporary license[prior to the expiration date of the temporary license, the licensee shall cease to perform radiographic procedures. The licensee remains eligible to sit for the exam, however, the individual shall not perform radiographic procedures. Upon successful completion of the exam, the individual shall submit:~~

~~(a) A limited x-ray machine operator license application using KBMIRT Form 4; and~~

~~(b) An initial application and license fee as mandated in 201 KAR 46:020, Section 4].~~

(5) If a temporary licensee has successfully passed the ARRT administered limited scope radiography exam prior to the expiration date of the temporary license, the licensee shall be issued a limited x-ray machine operator license which shall expire on the last day of the licensee's birth month. If the limited x-ray machine operator license is first issued to an individual less than six (6) months before the individual's birth month, the license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the

following calendar year.

Section 5. The issued license shall identify the licensee as a limited x-ray machine operator. The license shall also identify the category as general, bone densitometry, or podiatry.

Section 6. Curricular Standards for Formal Educational Program. This administrative regulation applies to institutions offering a postsecondary program for limited x-ray machine operators. Programs shall:

(1) Meet the curricular standards established by the American Society of Radiologic Technologists (ASRT);

(2) Include a minimum of 240 classroom hours of didactic instruction and 360 clinical hours of education which shall include supervised practice and demonstration of clinical competency;

(3) Supply data requested for a complete evaluation of its administration, organization, faculty, physical facilities, student policies, and curriculum;

(4) Provide a structured curriculum with clearly written course descriptions, lesson plans, and objectives;

(5) Provide an adequate faculty, which shall be qualified through academic preparation or experience to teach the subjects assigned;

(6) Have a program director who is a licensed radiographer with a minimum of three (3) years of clinical or teaching experience or a combination of clinical and teaching experience;

(7) Provide a licensee-to-student ratio consistent with professional educational guidelines in the appropriate field of practice;

(8) Provide appropriate facilities, sufficient volume, and a variety of diagnostic exams to properly conduct the educational program;

(9) Prohibit students from applying radiation to human beings for diagnostic purposes until they have obtained practical experience and have had their performance evaluated as satisfactory by the program faculty;

(10) Provide direct or indirect supervision by a licensed practitioner of the healing arts or a licensee as required by the student's level of competency;

(11) Prohibit students from administering radiation to a human being unless under direct or indirect supervision as required by the student's level of competency;

(12) Maintain records of each student's attendance, grades, clinical competency, and subjects completed;

(13) Designate a radiation safety officer; and

(14) Permit site inspections by the board's representative.

Section 7. Approved Radiographic Procedures for the Limited X-ray Machine Operator. An individual who holds a limited license is limited to performing the procedures authorized for his or her license as described in subsections (1), (2), and (3) of this section.

(1) An individual holding a general limited x-ray machine operator license shall perform only the following:

(a) Radiography of the thorax, lungs and ribs;

(b) Radiography of the abdomen;

(c) Radiography of the skull and facial structures;

(d)[(e)] Radiography of the upper and lower extremities;

(e) Radiography of, including] the pectoral girdle, [and the] hips, and pelvis; and

(f)[(d)] Radiography of the cervical, thoracic, and lumbar spines.

(2) An individual holding a limited podiatry x-ray machine operator license shall perform radiographic procedures on the foot and ankle only.

(3) An individual holding a limited bone densitometry x-ray machine operator license shall perform bone densitometry radiographic procedures only.

(4) A limited x-ray machine operator shall comply with the Limited X-ray Machine Operator Practice Standards as incorporated by reference in 201 KAR 46:035, Section 4.

Section 8. Continuing Education Requirements. Licensees shall complete and document twelve (12) hours of continuing

education biennially as required by 201 KAR 46:060. A minimum of six (6) hours shall be related to radiation safety or medical imaging.

Section 9. Continuing Education Audit Process.

(1) The board shall select a sample of twenty-five (25) percent of limited x-ray machine operator licensees to audit for continuing education compliance annually.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall complete KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, and provide the board with a copy of his or her certificates or records of completion.

(5) Failure to comply with an audit may result in nonrenewal, suspension or revocation of license.

Section 10. Renewal of License. A licensee shall renew annually prior to the expiration of his or her current license, which is the last day of the licensee's birth month, by:

(1) Completing KBMIRT Form 6; and

(2) Submitting the Renewal License Fee in accordance with 201 KAR 46:020, Section 2.

Section 11. Reinstatement of Lapsed License. A licensee who has allowed the license to lapse for up to twelve (12) months is eligible to be reinstated upon submission of KBMIRT Form 6, documentation of twelve (12) hours of continuing education, and the payment of reinstatement and renewal fees pursuant to 201 KAR 46:020, Sections 2 and 7. A licensee whose license has lapsed for more than twelve (12) months shall:

(1) Successfully pass the ARRT limited scope radiography examination;

(2) Submit a completed and signed application KBMIRT Form 4;

(3) Submit a nonrefundable initial application and license fee and reinstatement fee as mandated in 201 KAR 46:020, Sections 1 and 7;

(4) Submit satisfactory results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(5) Submit a copy of a government-issued photo ID.

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

(a) KBMIRT Form 4, "Limited X-ray Machine Operator License Application", March 2020[03/2019];

(b) KBMIRT Form 5, "Limited X-ray Machine Operator Temporary License Application", March 2020[03/2019];

(c) KBMIRT Form 6, "Limited X-ray Machine Operator Renewal Application", March 2020[09/2018].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320[42 Fountain Place], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the qualifications for a limited x-ray machine operator and the requirements for the licensure of a limited x-ray machine operator.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to KRS 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform limited x-ray procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes the qualifications for a limited x-ray machine operator and the requirements for the licensure of a limited x-ray machine operator.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the qualifications for a limited x-ray machine operator and the requirements for the licensure of a limited x-ray machine operator.

(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 updates requirements for limited scope exam, updates list of approved exams the limited x-ray machine operator is authorized to perform, clarifies continuing education audit process, and updates the applications to clarify requirements of reinstatement fees.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update requirements for limited scope exam, update list of approved exams the limited x-ray machine operator is authorized to perform, clarify continuing education audit process, and update the applications to clarify requirements of reinstatement fees.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the authority to establish qualifications for licensing medical imaging and radiation therapy professionals through the promulgation of administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide further clarification of requirements for the licensing of limited x-ray machine operators.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 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: No action is required.

(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: This will provide clarification of authorized exams a limited x-ray machine operator will be able to perform.

(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 changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No 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: The amendment does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is not applied.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.010 to KRS 311B.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. 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 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 (+/-): None

Expenditures (+/-): None

Other Explanation: None.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Incorporation by Reference.

(1) "Blackburn Correctional Complex Policies and Procedures," May 14, 2020[March 14, 2008], are incorporated by reference. Blackburn Correctional Complex Policies and Procedures include:

BCC 01-11-01	Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies
BCC 01-13-01	Relationships with Public, Media, and Other Agencies
BCC 01-13-02	Public Information and News Media Access
BCC 01-19-01	Inmate Access to BCC Staff
BCC 02-01-01	Inmate Canteen (Amended 5/14/20)
BCC 02-01-02	Inmate Canteen Committee (Added 5/14/20)
BCC 02-07-01	Inmate [Personal] Accounts (Amended 5/14/20)
[BCC 05-01-01]	Inmate Participation in Authorized Research
BCC 06-02-02	Offender Records (Amended 5/14/20[10/14/02])
[BCC 08-02-01]	Natural Disaster Plan (Tornado)
BCC 08-04-01	Fire Safety Plan, Drills and Related Duties
BCC 08-06-01	Storage Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials (Amended 5/14/20[10/14/02])
BCC 08-08-01	Lockdown in Place (Added 5/14/20)
BCC 09-02-03	Daily Controlled[Regulation of] Inmate Movement (Amended 5/14/20)
BCC 09-03-02	Population Counts and Count Documentation (Added 5/14/20)
[BCC 09-03-01]	Inmate Identification
BCC 09-14-01	Prohibiting Inmate Authority Over Other Inmates (Amended 5/14/20)
BCC 09-23-01	Restricted Areas (Added 5/14/20)
[BCC 09-19-01]	Duties and Responsibilities of the Institutional Captain
BCC 10-01-02	Temporary [Segregation] Holding Area (Amended 5/14/20)
BCC 11-01-01	Meal Planning and Procedure [Menu and Restricted Diets] (Amended 5/14/20[12/10/02])
BCC 11-02-01	Food Service:

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	<u>Inspections[Inspection, Health Protection and Sanitation] (Amended 5/14/20)</u>
<u>BCC 11-02-02</u>	<u>Health Standards for Food Service Workers (Added 5/14/20)</u>
<u>[BCC 11-03-01</u>	<u>Food Service: Meals</u>
<u>BCC 11-04-01</u>	<u>Dining Room Guidelines</u>
<u>BCC 11-05-01</u>	<u>Food Service Security: Knife & Other Sharp Instrument Control (Amended 12/10/02)]</u>
<u>BCC 11-06-01</u>	<u>Purchasing, Storage and Commodity[Farm] Products Amended 5/14/20</u>
<u>BCC 12-01-02</u>	<u>Treatment of Inmates with Body Lice (Added 5/14/20)</u>
<u>BCC 12-02-01</u>	<u>Personal Hygiene Items (Amended 5/14/20)</u>
<u>BCC 12-02-02</u>	<u>Clothing, Linens, Bedding Issuance and Shower Facilities (Amended 5/14/20)</u>
<u>BCC 12-05-01</u>	<u>Barber Shop Services (Amended 5/14/20[10/14/02])</u>
<u>BCC 13-01-01</u>	<u>Sick Call and Pill Call (Amended 5/14/20)</u>
<u>BCC 13-01-02</u>	<u>Self-Administered Medication (Added 5/14/20)</u>
<u>BCC 13-03-01</u>	<u>[Provisions of] Health Care Services[Delivery] (Amended 5/14/20)</u>
<u>BCC 13-05-01</u>	<u>Medical Alert System (Amended 5/14/20)</u>
<u>[BCC 13-06-01</u>	<u>Health Care Practices]</u>
<u>BCC 13-07-01</u>	<u>Emergency Medical Care and Specialized Health Services [Plan] (Amended 5/14/20[10/14/02])</u>
<u>[BCC 13-07-02</u>	<u>Emergency and Specialized Health Services (Amended 10/14/02)]</u>
<u>BCC 13-07-03</u>	<u>Immediate Medical Treatment for Person's Injured by Weapon or Chemical Agent</u>
<u>BCC 13-08-01</u>	<u>Inmate Health Screening and Evaluation (Amended 10/14/02)</u>
<u>BCC 13-09-01</u>	<u>Prohibition on Medical Experimentation]</u>
<u>BCC 13-10-01</u>	<u>Dental Services (Amended 5/14/20[10/14/02])</u>
<u>[BCC 13-11-01</u>	<u>Suicide Prevention and Intervention Program]</u>
<u>BCC 13-12-01</u>	<u>Use of Pharmaceutical Products (Amended 5/14/20[10/14/02])</u>
<u>[BCC 13-12-02</u>	<u>Parenteral Administration of Medications and Use of Psychotropic Drugs</u>
<u>BCC 13-13-01</u>	<u>Inmate Health Education (Amended 10/14/02)]</u>
<u>BCC 13-14-01</u>	<u>Management of Serious and Infectious Diseases (Amended 5/14/20[10/14/02])</u>
<u>[BCC 13-15-01</u>	<u>Informed Consent]</u>
<u>BCC 13-16-01</u>	<u>Health Records (Amended 5/14/20)</u>
<u>BCC 13-17-01</u>	<u>Notification of Inmate Family in the Event of Serious Illness, Injury or Surgery (Amended 5/14/20[12/10/02])</u>
<u>[BCC 13-19-01</u>	<u>Physicians Referrals and Continuity of Care</u>
<u>BCC 13-20-01</u>	<u>Chronic and Convalescent Care</u>

	<u>(Amended 10/14/02)]</u>
<u>BCC 13-22-01</u>	<u>Mental Health Program (Amended 5/14/20)[Psychiatric and Psychological Services, Handling of Mentally Retarded Inmates and Transfers]</u>
<u>BCC 14-00-01</u>	<u>Americans with Disabilities Act and Inmate Program Access (Added 5/14/20)</u>
<u>[BCC 14-01-01</u>	<u>Office of Public Advocacy and Attorney Visits (Amended 10/14/02)]</u>
<u>BCC 15-01-01</u>	<u>Restricted Areas</u>
<u>BCC 15-02-01</u>	<u>Inmate Pass System to Restricted Areas</u>
<u>BCC 15-02-02</u>	<u>Room Assignment (Amended 12/10/02)]</u>
<u>BCC 15-03-01</u>	<u>Rules [and Regulations] for Dormitories (Amended 5/14/20[10/14/02])</u>
<u>[BCC 15-04-01</u>	<u>Population Counts and Count Documentation</u>
<u>BCC 15-05-01</u>	<u>Extra Duty Assignments</u>
<u>BCC 16-01-01</u>	<u>Inmate Furloughs (Amended 10/14/02)</u>
<u>BCC 16-02-01</u>	<u>Inmate Visiting (Amended 5/14/20[12/10/02])</u>
<u>BCC 16-02-02</u>	<u>Parole Board (Added 5/14/20)</u>
<u>[BCC 16-03-02</u>	<u>Outgoing Inmate Packages]</u>
<u>BCC 16-03-03</u>	<u>Inmate Correspondence and Mailroom Operations (Amended 5/14/20[10/14/02])</u>
<u>BCC 17-01-01</u>	<u>Processing of New Admissions (Added 5/14/20)</u>
<u>BCC 17-01-03</u>	<u>Orientation for New Inmates (Added 5/14/20)</u>
<u>BCC 17-02-01</u>	<u>Inmate Personal Property (Amended 5/14/20)</u>
<u>BCC 18-02-01</u>	<u>Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Added 5/14/20)</u>
<u>[BCC 18-01-01</u>	<u>Classification of the Inmate (Amended 10/14/02)]</u>
<u>BCC 19-01-01</u>	<u>Inmate Work Programs (Amended 5/14/20[10/14/02])</u>
<u>BCC 19-02-01</u>	<u>Classification of Inmates to Governmental Service Program[Programs] (Amended 5/14/20)</u>
<u>BCC 19-03-01</u>	<u>Correctional Industries (Amended 5/14/20[10/14/02])</u>
<u>BCC 20-01-02</u>	<u>Educational Courses (Added 5/14/20)</u>
<u>[BCC 20-01-01</u>	<u>Blackburn Education Center</u>
<u>BCC 20-05-01</u>	<u>Educational Program Planning</u>
<u>BCC 20-06-01</u>	<u>Academic and Vocational Curriculum (Amended 10/14/02)]</u>
<u>BCC 21-01-01</u>	<u>Library Services (Amended 5/14/20[10/14/02])</u>
<u>BCC 21-01-02</u>	<u>Audio or Video Recorded[Tape] Court Transcripts (Amended 5/14/20)</u>
<u>BCC 22-02-01</u>	<u>Privilege[d] Trips (Amended 5/14/20[10/14/02])</u>
<u>BCC 22-04-01</u>	<u>Recreation and Inmate Activities (Amended 5/14/20[12/10/02])</u>
<u>BCC 22-04-02</u>	<u>Inmate Clubs and Organizations (Amended 5/14/20[10/14/02])</u>
<u>[BCC 22-04-03</u>	<u>Conducting Inmate Organizational Meetings and</u>

	Programs (Amended 10/14/02)
BCC 22-04-04	Recreation Program Availability (Amended 10/14/02)
BCC 22-04-05	Supervision of Leisure-time Craft Club Activities and Materials (Amended 10/14/02)
BCC 22-06-01	Music Club
BCC 22-09-01	Use of Inmates in Recreation Programs
BCC 23-01-01	Religious Services (Amended 5/14/20[10/14/02])
BCC 24-03-01	Social Services (Amended 5/14/20[12/10/02])
BCC 25-01-01	Inmate Check Out Procedure (Amended 5/14/20)
BCC 25-02-01	Release Preparation (Amended 5/14/20[Reporting Inmate Misconduct Following Favorable Recommendations by the Parole Board (Added 10/14/02)])
BCC 26-01-01	Citizen Involvement and Volunteer Service Program (Amended 5/14/20).

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

RANDY WHITE, Acting Commissioner

APPROVED BY AGENCY: April 28, 2020

FILED WITH LRC: May 14, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 21, 2020, 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 July 31, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Blackburn Correctional Complex (BCC).

(b) The necessity of this administrative regulation: This regulation meets statutory requirements in KRS 196.035 and 197.020 and meets American Correctional Association (ACA) standards policy requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of the Blackburn Correctional Complex including rights and responsibilities of employees and inmates.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to BCC employees and inmates concerning employee duties, inmate responsibilities, and the procedures that govern

operations of the institution.

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

(a) How the amendment will change this existing administrative regulation: The amendment adds new policies, deletes policies, and updates procedures in other policies for the Blackburn Correctional Complex in part for compliance with ACA standards as outlined in the summary of material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendment meets the requirements of KRS 196.035 and 197.020 and updates practices for the institution in part to maintain accreditation with the ACA.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes permit the Secretary of the Cabinet or his delegate and the Commissioner to implement or amend practices or procedures to ensure the safe and efficient operation of the institution.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff, inmates, volunteers, and visitors information concerning the effective and orderly management of the institution.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 141 employees and 320 inmates at the Blackburn Correctional Complex and all volunteers and visitors to the institution.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff, inmates, volunteers, and visitors will have to follow the changes made in the policies and procedures. They will have to change their actions to comply with the operational changes made by this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the amendment to this administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the institution.

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

(a) Initially: No additional cost is anticipated.

(b) On a continuing basis: No additional cost is anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds budgeted to the institution.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is anticipated.

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 28 C.F.R. §115.15, 28 C.F.R. §115.42

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

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

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

(c) How much will it cost to administer this program for the first year? The amendment to this regulation impacts how the institution operates, but does not increase costs from what will be budgeted to the institution.

(d) How much will it cost to administer this program for subsequent years? The amendment to this regulation impacts how the institution operates, but is not expected to increase costs from what will be budgeted to the institution.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

LABOR CABINET
Department of Workers' Claims
(Amendment)

803 KAR 25:070. Charges for attorneys.

RELATES TO: KRS 342.320

STATUTORY AUTHORITY: KRS 342.260

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the Commissioner [Workers' Compensation Board] to prepare such rules and administrative regulations as he [it] considers necessary to carry on its work and for carrying out the provisions of KRS Chapter 342. For injuries occurring or disabilities arising on or after July 15, 1982 and prior to April 4, 1994, KRS 342.320 requires an administrative law judge [the Workers' Compensation Board] to approve the payment of the attorney's fee in any case involving benefits under KRS Chapter 342 and to commute the final payments of benefits payable under the award to a lump sum for that purpose. KRS Chapter 342.120, as effective prior to April 4, 1994, provided [provides] the method by which an employer or its insurance carrier and the Special Fund shared [share] liability for awards for injuries occurring and disabilities arising on or after July 15, 1982, and prior to April 4, 1994. The function of this administrative regulation is to establish a mechanism for crediting the above referenced parties for the payment of attorneys' fees in these cases.

Section 1. Credit for Lump Sum Payment of Charges by Attorneys. A party defendant shall be entitled, without further order of the administrative law judge [board], to credit for the lump sum value of any attorney's fee paid. The procedure for payment of attorney fees and the impact of such payment on weekly benefits shall be as follows:

(1) The Labor Cabinet [Department of Labor], Department [Office] of Workers' Claims, Division of the Workers' Compensation Funds, shall calculate the credit for attorney's fee as follows:

(a) Number of weeks as awarded due in future (do not include payments payable prior to attorney fee award) = X weeks.

(b) Obtain a lump sum of X (X weeks on lump sum table) = Y [Z] weeks.

(c) Divide amount of attorney fee by amount due per week = Z weeks.

(d) Y weeks minus Z weeks = A [Z] weeks.

(e) Look in table on lump sum and find A weeks in the Present

Work column of the chart and then take the figure in the weeks column of the chart = B weeks, the total number of weeks of actual remaining award payments by parties defendant before the credit causes cessation of award payment checks.

(f) X minus B = C weeks, the number of weeks of benefit cessation required to equal the statutory credit.

(2) The Labor Cabinet [Department of Labor], Department [Office] of Workers' Claims, Division of Workers' Compensation Funds, shall calculate the employer's credit for attorney's fee as follows:

(a) Number of weeks due from employer or insurance carrier in future pursuant to KRS 342.120 (do not include payments payable prior to attorney fee award) = X₁.

(b) Obtain a lump sum of X₁ (X₁ weeks on lump sum table) = Y₁ weeks.

(c) Divide amount of attorney fee by amount due per week = Z weeks.

(d) Multiply Z weeks by employer's percentage of award = Z₁ weeks.

(e) Y₁ weeks minus Z₁ weeks = A₁ weeks.

(f) Look in table on lump sum and find A₁ weeks in the Present Worth column of the chart and then take the figure in the weeks column of the chart = B₁ weeks, the number of weeks yet to be paid by the employer or the insurance carrier before the Special Fund begins to pay disability benefits.

(3) The calculations set forth in subsections (1) and (2) of this section shall be completed by the Division of the Workers' Compensation Funds and the results forwarded to the other payers, as well as the plaintiff. Any disagreements as to the application of the formula shall be resolved by an administrative law judge [the board] upon motion by any party. Special Fund's notice shall include the following information:

(a) Attorney fee to be paid by each party. The period of time for which each party defendant will be responsible for disability benefit payment and, in cases involving lifetime benefits, the date upon which benefits payments will be reinstituted by the Special Fund after taking credit for the amount advanced to pay the attorney's fee in a lump sum.

(4) When any payer other than the Special Fund [the defendant payer or payers] has fulfilled its obligation [obligations] as reduced pursuant to subsection (2) of this section, payments will commence by the Special Fund (there will be no stoppage to recover advance attorney fee payments at this time). The Special Fund shall continue weekly benefit payments until such time as the number of weeks remaining in the specified benefit period or the life expectancy as determined by mortality tables approved by the Commissioner [Workers' Compensation Board], multiplied by the weekly benefit rate is equal to the total attorney fee and discount paid by all payers on behalf of the injured worker. In claims where benefits are payable for a lifetime, the weekly benefit payments will be reinstituted by the Special Fund at such time as the payer [payor] surpasses the life expectancy as determined by the mortality table approved by the Commissioner [Workers' Compensation Board] and shall continue until terminated by death or order of an administrative law judge [the Workers' Compensation Board].

(5) No part of this section should be viewed as a limitation on the party's right to negotiate a settlement subject to statutory approval by an administrative law judge [the Workers' Compensation Board].

This is to certify that the commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260 and 342.035.

ROBERT L. SWISHER, Commissioner

APPROVED BY AGENCY:

FILED WITH LRC:

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2020, at 10:00 a.m. (EDT) by video teleconference pursuant to KRS 61.800, et seq. In keeping with KRS 13A.270, individuals interested in attending or being heard at this hearing

shall notify this agency in writing of their intent to attend no later than five (5) workdays prior to the hearing along with contact information. Upon notification of intent to attend, individuals will be provided information necessary to attend the video teleconference. 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 July 31, 2020. 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 C. Wilhoit, Special Assistant, Department of Workers' Claims, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4532, fax (502) 564-0682, email, Scottc.wilhoit@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Scott C. Wilhoit, Special Assistant

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a mechanism for crediting an employer or its insurance carrier and the Special Fund for payment of attorney fees when they share liability for awards for injuries occurring and disabilities arising on and after July 15, 1982 and prior to April 4, 1994.

(b) The necessity of this administrative regulation: Amendment to this administrative regulation is necessary to comply with subsequent statutory changes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 342.260 requires the commissioner to promulgate administrative regulations necessary to the work of the department and to carry out the provisions of KRS Chapter 342. Amendment to this administrative regulation is necessary to comply with statutory changes to KRS Chapter 342.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes a mechanism for crediting an employer or its insurance carrier and the Special Fund for payment of attorney fees when they share liability for awards for injuries occurring and disabilities arising on and after July 15, 1982 and prior to April 4, 1994. The amendment specifies the period for which the calculation applies.

(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 specifies the period for which the calculation applies, which has been altered by statutory revisions.

(b) The necessity of the amendment to this administrative regulation: Statutory revisions limited the time period during which this administrative regulation applied; the amendment conforms with those revisions.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides the time period during which the calculation is applicable.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation provides guidance to those who need to take credit for payment of an attorney fee.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All injured employees, insurance carriers, self-insurance groups, self-insured employers, insured employers, and third party administrators.

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

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: The calculation remains the same. The only difference is the time period.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities will know the time period for which the calculation applies.

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

(a) Initially: None

(b) On a continuing basis: There should be no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is 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 or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied; the administrative regulation applies to all parties 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 of Workers' Claims and all agencies or departments of government with employees.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.260; 342.320

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 direct effect on expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? It does not appear there will be additional costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There should be no increase or decrease in the nominal cost to administer this amendment.

LABOR CABINET Department of Workers' Claims (Amendment)

803 KAR 25:075. Attorney fee discount.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.260

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260

requires the Commissioner [Executive Director] of the Department [Office] of Workers' Claims to prepare administrative regulations as he considers necessary to carry on the work of the office and the work of the administrative law judges. KRS 342.320 requires the administrative law judges to approve the payment of the attorney's fee in any case involving benefits under KRS Chapter 342, and KRS 342.120, as effective between April 4, 1994 and December 12, 1996, provides the method by which an employer or its insurance carrier and the special fund share liabilities for awards or injuries occurring after April 4, 1994. The function of this administrative regulation is to establish a mechanism for crediting the employer, the employer's insurance carrier, and the special fund for the payment of attorneys' fees for injuries occurring and disabilities arising after April 4, 1994, and prior to December 12, 1996, when the claimant elects to repay an attorney's fee through the reduction of weekly benefits.

Section 1. Employer's Calculation. For injuries occurring and disabilities arising on or after April 4, 1994, and prior to December 12, 1996, the employer or the insurance carrier making payment on behalf of the employer shall be entitled to credit for the lump sum value of any attorney's fee paid. The following formula shall be used:

- (1) Employer weeks awarded - weeks paid = R [remaining] weeks.
- (2) $R \text{ weeks} = P \text{ weeks (present worth)}$.
- (3) Employer [EMP-%] share of Attorney fee divided by $[-]P$ weeks = Y rate.
- (4) $[R \text{ weeks} \times Y \text{ rate}] = \text{employer attorney fee and discount}$.
- (5) $\text{EMP attorney fee and discount} - \text{EMP attorney fee} = \text{EMP discount}$.
- (6) $\text{Weekly rate} - Y \text{ rate} = \text{Employer reduced rate}$.

Section 2. Special Fund Credit. The Labor Cabinet, Department of Workers' Claims [Department of Labor, Office of Workplace Standards], Division of Workers' Compensation Funds shall calculate its lump sum credit for attorney's fees in cases involving injuries occurring and disabilities arising on or after April 4, 1994, and prior to December 12, 1996, as follows:

- (1) Employer weeks awarded - weeks paid = R [remaining] weeks.
- (2) $R \text{ weeks} = P \text{ weeks (present worth)}$.
- (3) Total weeks awarded - weeks paid = total remaining (TR) weeks.
- (4) $TR \text{ weeks} = PW \text{ weeks (present worth)}$.
- (5) $PW \text{ weeks} - P \text{ weeks} = SF \text{ (Special Fund) weeks}$.
- (6) SF [%] share of Attorney fee divided by $[-]SF \text{ weeks} = SF$ rate reduction.
- (7) $SF \text{ rate reduction} \times SF \text{ weeks owed} = SF \text{ attorney fee and discount}$.
- (8) $SF \text{ attorney fee and discount} - SF \text{ attorney fee} = SF \text{ discount}$.

Section 3. Procedure. The calculations set forth in Sections 1 and 2 of this administrative regulation shall be completed by the Division of Workers' Compensation Funds and the results forwarded to the other payers, as well as to the plaintiff, when the plaintiff elects to repay an attorney's fee through the reduction of weekly benefits. Any disagreements as to the application of the formula shall be resolved by the administrative law judge upon motion by any party.

This is to certify that the commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260 and 342.035.

ROBERT L. SWISHER, Commissioner

APPROVED BY AGENCY:

FILED WITH LRC:

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2020, at 10:00 a.m. (EDT) by video teleconference pursuant to KRS 61.800, et seq. In keeping with KRS 13A.270,

individuals interested in attending or being heard at this hearing shall notify this agency in writing of their intent to attend no later than five (5) workdays prior to the hearing along with contact information. Upon notification of intent to attend, individuals will be provided information necessary to attend the video teleconference. 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 July 31, 2020. 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 C. Wilhoit, Special Assistant, Department of Workers' Claims, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4532, fax (502) 564-0682, Scottc.wilhoit@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Scott C. Wilhoit, Special Assistant

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes a mechanism for crediting the employer, the employer's insurance carrier, and the special fund for the payment of attorneys' fees for injuries occurring and disabilities arising after April 4, 1994, and prior to December 12, 1996, when the claimant elects to repay an attorney's fee through the reduction of weekly benefits.
 - (b) The necessity of this administrative regulation: Amendment to this administrative regulation is necessary to comply with subsequent statutory changes.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 342.260 requires the commissioner to promulgate administrative regulations necessary to the work of the department and to carry out the provisions of KRS Chapter 342. Amendment to this administrative regulation is necessary to comply with statutory changes to KRS Chapter 342.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes a mechanism for crediting an employer or its insurance carrier and the Special Fund for the payment of attorneys' fees for injuries occurring and disabilities arising after April 4, 1994, and prior to December 12, 1996, when the claimant elects to repay an attorney's fee through the reduction of weekly benefits.
- (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 specifies the period for which the calculation applies, which has been altered by statutory revisions.
 - (b) The necessity of the amendment to this administrative regulation: Statutory revisions limited the time period during which this administrative regulation applied; the amendment conforms with those revisions.
 - (c) How the amendment conforms to the content of the authorizing statutes: The amendment provides the time period during which the calculation is applicable.
 - (d) How the amendment will assist in the effective administration of the statutes: This administrative regulation provides guidance to those who need to take credit for payment of an attorney fee.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All injured employees, insurance carriers, self-insurance groups, self-insured employers, insured employers, and third party administrators.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an

amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The calculation remains the same. The only difference is the time period.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities will know the time period for which the calculation applies.

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

(a) Initially: None

(b) On a continuing basis: There should be no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is 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 or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied; the administrative regulation applies to all parties 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 of Workers' Claims and all agencies or departments of government with employees.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.260; 342.320

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 direct effect on expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? It does not appear there will be additional costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There should be no increase or decrease in the nominal cost to administer this amendment.

LABOR CABINET Department of Workers' Claims (Amendment)

803 KAR 25:096. Selection of physicians, treatment plans and statements for medical services.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.020, 342.035, 342.260, 342.320, 342.735

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the Commissioner [Executive Director] of the Department [Office] of Workers' Claims to promulgate administrative regulations necessary to carry on the work of the office under KRS Chapter 342. KRS 342.735 requires the commissioner [executive director] to promulgate administrative regulations to expedite the payment of medical expense benefits. This administrative regulation regulates the selection of physicians and provides for treatment plans under KRS Chapter 342 in order to assure high quality medical care at a reasonable cost.

Section 1. Definitions. (1) "Designated physician" means the physician selected by the employee for treatment pursuant to KRS 342.020(5).

(2) "Emergency care" means:

(a) Those medical services required for the immediate diagnosis or treatment of a medical condition that if not immediately diagnosed or treated could lead to a serious physical or mental disability or death; or

(b) Medical services which are immediately necessary to alleviate severe pain.

(3) "Long-term medical care" means:

(a) Medical treatment or medical rehabilitation that is reasonably projected to require a regimen of medical care for a period extending beyond ninety (90) days;

(b) Medical treatment that continues for a period of more than ninety (90) days; or

(c) Medical treatment including the recommendation that the employee not engage in the performance of the employee's usual work for a period of more than sixty (60) days.

(4) "Physician" is defined in KRS 342.0011(32).

(5) "Statement for services" means:

(a) For a nonpharmaceutical bill, a completed Form HCFA 1500, or for a hospital, a completed Form UB-92, with an attached copy of legible treatment notes, hospital admission and discharge summary, or other supporting documentation for the billed medical treatment, procedure, or hospitalization; and

(b) For a pharmaceutical bill, a bill containing the identity of the prescribed medication, the number of units prescribed, the date of the prescription, and the name of the prescribing physician.

(6) "Treatment plan" means a written plan that:

(a) May consist of copies of charts, consultation reports or other written documents maintained by the employee's designated physician discussing symptoms, clinical findings, results of diagnostic studies, diagnosis, prognosis, and the objectives, modalities, frequency, and duration of treatment;

(b) Shall include, as appropriate, details of the course of ongoing and recommended treatment and the projected results; and

(c) May be amended, supplemented or changed as conditions warrant.

Section 2. Employer's Obligation to Supply Kentucky Workers' Compensation Designation and Medical Release Card (Form 113). Within ten (10) days following receipt of notice of a work injury or occupational disease causing lost work time or necessitating continuing medical treatment, the medical payment obligor shall mail a Form 113 to the employee, including a self-addressed, postage prepaid envelope for returning the Form 113. Failure by the medical payment obligor to timely mail the form shall waive an objection to treatment by other than a designated physician prior to receipt by the employee of the form.

Section 3. Employee Selection of Physician. (1) Except for emergency care, treatment for a work-related injury or occupational disease shall be rendered under the coordination of a single physician selected by the employee. The employee shall give notice to the medical payment obligor of the identity of the designated physician by tendering the completed Form 113, including a written acceptance by the designated physician, within ten (10) days after treatment is commenced by that physician.

(2) Within ten (10) days following receipt of a Form 113 designating a treating physician, the medical payment obligor shall tender a card to the employee, which shall be presented to a medical provider each time that a medical service is sought in connection with the work-related injury or occupational disease.

(3) The card shall serve as notice to a medical provider of the identity of the designated physician, who shall have the sole authority to make a referral to a treatment facility or to a specialist.

(a) The card shall bear the legend "First Designated Physician-Workers' Compensation" and shall further contain the following information:

1. Name and telephone number of the first designated physician;

2. Name, Social Security number, date of birth, and date of work injury or occupational disease and last exposure of the employee; and

3. Name and telephone number of the medical payment obligor.

(b) The reverse side of the first designated physician card shall contain:

1. A notice that treatment shall be performed by or on referral from the first designated physician; and

2. Shall further contain space for the identification and notification of a change of designated physician.

(4) Failure by the medical payment obligor to timely mail the "First Designated Physician" card shall waive an objection to treatment by other than a designated physician prior to receipt by the employee of the card.

(5) The unreasonable failure of an employee to comply with the requirements of this section may suspend all benefits payable under KRS Chapter 342 until compliance by the employee and receipt of the Form 113 by the medical payment obligor has occurred.

Section 4. Change of Designated Physician. (1) Following initial selection of a designated physician, the employee may change designated physicians once without authorization of the employer or its medical payment obligor. Referral by a designated physician to a specialist shall not constitute a change of designated physician unless the latter physician is specifically selected by the employee as the second designated physician.

(2) Within ten (10) days of a decision to change the designated physician, the employee shall complete the back of the first designated physician card and return the card with the name of the second designated physician, including a written acceptance by the second designated physician, to the medical payment obligor, which shall issue a second card within ten (10) days.

(3) The card shall bear the legend "Second Designated Physician-Workers' Compensation" and shall further contain the information required on the first designated physician card. The reverse side of the card shall contain a notice that:

(a) Treatment shall be performed by or on referral from the second designated physician; and

(b) A further change of designated physician shall require the written consent of the employer, its medical payment obligor, arbitrator, or the administrative law judge.

(4) Failure by the medical payment obligor to timely mail the "Second Designated Physician" card shall waive an objection to treatment by other than a designated physician prior to receipt by the employee of the card.

(5) If an employee's two (2) choices of designated physician have been exhausted, he shall not, except as required by medical emergency, make an additional selection of a physician without the written consent of the employer, its medical payment obligor, arbitrator, or the administrative law judge. This consent shall not be

unreasonably withheld.

(6) If the employer provides medical services through a managed health care system, it may establish alternate methods for provider selection within the managed health care plan.

Section 5. Treatment Plan. (1) A treatment plan shall be prepared if:

(a) Long-term medical care is required as a result of a work-related injury or occupational disease;

(b) The employee has received treatment with passive modalities, including electronic stimulation, heat or cold packs, massage, ultrasound, diathermy, whirlpool, or similar procedures for a period exceeding sixty (60) days. The treatment plan shall detail the need for the passive treatment, the benefits, if any, derived from the treatment, the risks attendant with termination of the treatment, and the projected period of future treatment; or

(c) An elective surgical procedure or placement into a resident work hardening, pain management, or medical rehabilitation program is recommended. The treatment plan shall set forth specific and measurable performance goals for the employee through the surgery, work hardening, or medical rehabilitation program.

(2) The designated physician shall provide a copy of the treatment plan to the medical payment obligor seven (7) days in advance of an elective surgical procedure or placement into a resident work hardening, pain management, or medical rehabilitation program. In all other instances when a treatment plan is required, a copy of the treatment plan shall be provided within fifteen (15) days following a request by the medical payment obligor. An amendment, supplement, or change to a treatment plan shall be furnished within fifteen (15) days following a request.

(3) Preparation of a treatment plan shall be a necessary part of the care to be rendered and shall be an integral part of the fee authorized in the medical fee schedule for the underlying services. An additional fee shall not be charged for the preparation of a treatment plan or progress report, except for the reasonable cost of photocopying and mailing the records.

Section 6. Tender of Statement for Services. If the medical services provider fails to submit a statement for services as required by KRS 342.020(1) without reasonable grounds, the medical bills shall not be compensable.

Section 7. Written Denial of Statement for Services Prior to the Resolution of Claim. (1) Prior to resolution of a workers' compensation claim by opinion or order of an [arbitrator or] administrative law judge, the medical payment obligor shall notify the medical provider and employee of its denial of a specific statement for services, or payment for future services from the same provider, in writing within thirty (30) days following receipt of a completed statement for services.

(2) A copy of the denial shall be mailed to the employee, employer, and medical service provider.

(3) The denial shall:

(a) Include a statement of the reasons for denial and a brief synopsis of available utilization review or medical bill audit procedures with relevant telephone contact numbers; and (b) Be made for a good faith reason.

(4) Upon receipt of a denial from a medical payment obligor, a medical provider may tender a statement for services to another potential payment source or to the patient.

Section 8. Payment or Challenge to Statement for Services Following Resolution of Claim. (1) Following resolution of a claim by an opinion or order of an arbitrator or administrative law judge, including an order approving settlement of a disputed claim, the medical payment obligor shall tender payment or file a medical fee dispute with an appropriate motion to reopen the claim, within thirty (30) days following receipt of a completed statement for services.

(2) The thirty (30) day period provided in KRS 342.020(1) shall be tolled during a period in which:

(a) The medical provider submitted an incomplete statement for services. The payment obligor shall promptly notify the medical

provider of a deficient statement and shall request specific documentation. The medical payment obligor shall tender payment or file a medical fee dispute within thirty (30) days following receipt of the required documentation;

(b) A medical provider fails to respond to a reasonable information request from the employer or its medical payment obligor pursuant to KRS 342.020(4);

(c) The employee's designated physician fails to provide a treatment plan if required by this administrative regulation; or

(d) The utilization review required by 803 KAR 25:190 is pending. The thirty (30) day period for filing a medical fee dispute shall commence on the date of rendition of the final decision from the utilization review. A medical fee dispute filed thereafter shall include a copy of the final utilization review decision and the supporting medical opinions.

(3) An obligation for payment or challenge shall not arise if a statement for services clearly indicates that the services were not performed for a work-related condition.

Section 9. Payment Pursuant to Fee Schedules. (1) If the statement for services contains charges in excess of those provided in the applicable fee schedule established in 803 KAR 25:089, 803 KAR 25:091, and 803 KAR 25:092, the medical payment obligor shall make payment in the scheduled amount and shall serve a written notice of denial setting forth the reason for refusal to pay a greater amount.

(2) Following receipt of a final medical bill audit reconsideration decision pursuant to 803 KAR 25:190, the medical provider shall file within thirty (30) days a medical fee dispute in accordance with 803 KAR 25:012 to dispute the amount of payment.

Section 10. Patient Billing. (1) A medical provider may tender a statement for services to a patient once it has received:

(a) A written denial from the medical payment obligor; or

(b) An opinion by an [arbitrator or] administrative law judge finding that the services were unrelated to a work injury or occupational disease.

(2) The medical provider shall not bill a patient for services which have been found to be unreasonable or unnecessary by an [arbitrator or] administrative law judge, if the medical provider has been joined as a party to a workers' compensation claim or to a medical fee dispute and has had an opportunity to present contrary evidence.

(3) The medical provider shall not bill a patient for services which have been denied by the payment obligor for failure to submit bills following treatment within forty-five (45) days as required by KRS 342.020 and Section 6 of this administrative regulation.

Section 11. Request for Payment for Services Provided or Expenses Incurred to Secure Medical Treatment. (1) If an individual who is not a physician or medical provider provides compensable services for the cure or relief of a work injury or occupational disease, including home nursing services, the individual shall submit a fully completed Form 114 to the employer or medical payment obligor within sixty (60) days of the date the service is initiated and every sixty (60) days thereafter, if appropriate, for so long as the services are rendered.

(2) Expenses incurred by an employee for access to compensable medical treatment for a work injury or occupational disease, including reasonable travel expenses, out-of-pocket payment for prescription medication, and similar items shall be submitted to the employer or its medical payment obligor within sixty (60) days of incurring of the expense. A request for payment shall be made on a Form 114.

(3) Failure to timely submit the Form 114, without reasonable grounds, may result in a finding that the expenses are not compensable.

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

(a) Form 113, "Notice of Designated Physician", (March 12, 2003 Edition), Department [Office] of Workers' Claims; and

(b) Form 114, "Request for Payment for Services or Reimbursement for Compensable Expenses", (October 30, 2017 Edition[August 15, 1996 Edition]), Department [Office] of Workers' Claims.

(2) This material may be inspected, copied, or obtained at the Department [Office] of Workers' Claims, Monday through Friday, 9 a.m. to 4 p.m., at the following locations:

(a) Mayo-Underwood Building, 3rd Floor, 500 Mero Street, [Prevention Park, 657 Chamberlin Avenue,] Frankfort, Kentucky 40601;

(b) [410 West Chestnut Street, Louisville, Kentucky 40202;

(c) 220B North 8th Street, Paducah, Kentucky 42001; or

(d) Uniplex Building, Suite 304, 126 Trivette Drive, Pikeville, Kentucky 41501 [107 Coal Hollow Road, Pikeville, Kentucky 41501];

(e) Online at "<https://labor.ky.gov/comp/Pages/default.aspx>".

This is to certify that the commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260 and 342.035.

ROBERT L. SWISHER, Commissioner

APPROVED BY AGENCY: April 27, 2020

FILED WITH LRC: April 28, 2020 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2020, at 10:00 a.m. (EDT) by video teleconference pursuant to KRS 61.800, et seq. In keeping with KRS 13A.270, individuals interested in attending or being heard at this hearing shall notify this agency in writing of their intent to attend no later than five (5) workdays prior to the hearing along with contact information. Upon notification of intent to attend, individuals will be provided information necessary to attend the video teleconference. 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 July 31, 2020. 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 C. Wilhoit, Special Assistant, Department of Workers' Claims, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4532, fax (502) 564-0682, email Scottc.wilhoit@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Scott C. Wilhoit, Special Assistant

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 342.735 requires the executive director to promulgate administrative regulations to expedite the payment of medical expense benefits. This administrative regulation regulates the selection of physicians and provides for treatment plans under KRS Chapter 342 in order to assure high quality medical care at a reasonable cost.

(b) The necessity of this administrative regulation: Amendment to this administrative regulation is necessary to comply with subsequent statutory changes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 342.260 requires the commissioner to promulgate administrative regulations necessary to the work of the department and to carry out the provisions of KRS Chapter 342. Amendment to this administrative regulation is necessary to comply with statutory changes to KRS Chapter 342.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 342.735 requires the executive director to promulgate administrative regulations to expedite the payment of medical expense benefits. This administrative regulation regulates the selection of physicians

and provides for treatment plans under KRS Chapter 342 in order to assure high quality medical care at a reasonable cost.

(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 will match subsequent statutory changes and changes in Department satellite locations.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to match subsequent statutory changes and changes in Department satellite locations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments will match subsequent statutory changes and changes in Department satellite locations.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation provides guidance regarding the selection of physicians, treatment plans, and statements for medical services.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All injured employees, insurance carriers, self-insurance groups, self-insured employers, insured employers, and third party administrators.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendments to this regulation will not alter any required action.

(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 cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments to this regulation will not alter any benefits that currently accrue.

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

(a) Initially: None

(b) On a continuing basis: There should be no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is 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 or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied; the administrative regulation applies to all parties 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 of Workers' Claims and all agencies or departments of government with employees.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.020; 342.035; 342.260; 342.320; and 342.735.

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 direct effect on expenditures.

(a) How much revenue will this administrative regulation

generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? It does not appear there will be additional costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There should be no increase or decrease in the nominal cost to administer this amendment.

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(Amendment)

902 KAR 20:160. Chemical dependency treatment services and facility specifications.

RELATES TO: KRS 198B.260, 202A.241, 210.005, 216B.010, 216B.015, 216B.105, 216B.990, 218A.202, 309.080, 309.0831, 309.130, 310.021, 311.560, 311.571, 311.840 – 311.862, 314.011(8), 314.042, 319.050, 319.056, 319.064, 319C.010, 320.210(2), 335.080, 335.100, 335.300, 335.500, 42 C.F.R. Part 2, 45 C.F.R. 160, 164, 20 U.S.C. 1400, 29 U.S.C. 701, 42 U.S.C. 290ee-3, 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS [~~216B.010~~], 216B.042(1), 216B.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 require the Cabinet for Health and Family Services to regulate health facilities and health services. This administrative regulation establishes licensure requirements for the operation, services, and facility specifications of chemical dependency treatment programs, including programs that [which] elect to provide outpatient behavioral health services for individuals with a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis.

Section 1. Definitions. (1) "Aftercare" means the process of providing continued services following primary chemical dependency treatment to support and increase gains made during treatment.

(2) "Behavioral health professional" means:

(a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry;

(b) A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

(g) A physician assistant as defined by KRS 311.840(3) [~~licensed under KRS 311.840 to 311.862~~];

(h) A marriage and family therapist as defined by [~~licensed and~~

practicing in accordance with] KRS 335.300(2);

(i) A licensed professional clinical counselor as defined by [licensed and practicing in accordance with] KRS 335.500(3); or

(j) A licensed professional art therapist as defined by KRS 309.130(2).

(3) "Behavioral health professional under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate licensed and practicing in accordance with KRS 319.064;

(c) Marriage and family therapy[therapist] associate as defined by KRS 335.300(3);

(d) Social worker certified and practicing in accordance with KRS 335.080;

(e) Licensed professional counselor associate as defined by KRS 335.500(4); or

(f) Licensed professional art therapist associate as defined by KRS 309.130(3).

(4) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(5) "Governing authority" means the individual, agency, partnership, or corporation that directs and establishes policy concerning the management and operation of a chemical dependency treatment program.

(6) "Interdisciplinary team" means a group of at least four (4) professionals, including a physician, registered nurse, certified chemical dependency counselor, and a person with a master's degree in psychology, social work, or counseling.

(7) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).

(8) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).

(9) "Peer support specialist" means a paraprofessional who:

(a) Is a registered alcohol and drug peer support specialist in accordance with KRS 309.0831; or

(b)1. Meets the application, training, examination, and supervision requirements of 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240; and

2. Works under the supervision of one (1) of the following:

a. Physician;

b. Psychiatrist;

c. Licensed psychologist;

d. Licensed psychological practitioner;

e. Licensed psychological associate;

f. Licensed clinical social worker;

g. Licensed marriage and family therapist;

h. Licensed professional clinical counselor;

i. Certified social worker;

j. Licensed marriage and family therapy associate;

k. Licensed professional counselor associate;

l. Licensed professional art therapist;

m. Licensed professional art therapist associate;

n. Advanced practice registered nurse;

o. Physician assistant;

p. Certified alcohol and drug counselor; or

q. Licensed clinical alcohol and drug counselor.

(10) "Restraint" means a physical or mechanical device used to restrict the movement of the patient or a portion of the patient's body.

(11) "Substance use disorder" is defined by KRS 222.005(12)[means a cluster of cognitive, behavioral, and physiological symptoms resulting from use of a substance which the individual continues to take despite experiencing substance-related problems as a result, including:

(a) Intoxication;

(b) Withdrawal; or

(c) A substance-induced mental health disorder].

(12) "Targeted case manager" means an individual who meets the requirements for a targeted case manager established by 908 KAR 2:260.

Section 2. Scope of Operation and Services. (1) A chemical

dependency treatment service shall have a structured inpatient program to provide medical, social, diagnostic, and treatment services to individuals with substance use disorder.

(2) Chemical dependency treatment services shall:

(a) Have a duration of less than thirty (30) days;

(b) Be hospital based or freestanding;

(c) Have eight (8) or more patient beds;

(d) Be under the medical direction of a physician; and

(e) Provide continuous nursing services.

(3) If a chemical dependency treatment program provides outpatient behavioral health services, as described in Section 5 of this administrative regulation, for individuals with a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis:

(a) The outpatient behavioral health services shall be provided:

1. On a separate floor, in a separate wing, or in a separate building on the campus of the chemical dependency treatment program's inpatient facility; or

2. At an extension off the campus of the chemical dependency treatment program's inpatient facility;

(b) The chemical dependency treatment program shall pay a fee in the amount of \$250 per off-campus extension providing outpatient behavioral health services, submitted to the Office of Inspector General at the time of:

1. Initial licensure, if applicable;

2. The addition of a new extension to the chemical dependency treatment program's license; and

3. Renewal;

(c) Each off-campus extension or on-campus program of outpatient behavioral health services shall be listed on the chemical dependency treatment program's license;

(d) An off-campus extension or a separate building on the campus of the chemical dependency treatment program's inpatient facility where outpatient behavioral health services are provided shall comply with the physical environment requirements of Section 8 of this administrative regulation and be approved by the State Fire Marshal's office prior to:

1. Initial licensure;

2. The addition of the extension or on-campus program of outpatient behavioral health services in a separate building; or

3. A change of location;

(e) The program shall employ directly or by contract a sufficient number of personnel to provide outpatient behavioral health services; and

(f) The outpatient behavioral health services program shall have a program director who:

1. May also serve as the chemical dependency treatment program's treatment director described in Section 3(10) of this administrative regulation; and

2. Shall be a:

a. Psychiatrist;

b. Physician;

c. [Certified or] Licensed psychologist or certified psychologist with autonomous functioning;

d. Licensed psychological practitioner;

e. Psychiatric nurse;

f. Advanced practice registered nurse;

g. Licensed professional clinical counselor;

h. Licensed marriage and family therapist;

i. Licensed professional art therapist;

j. Licensed [board-certified] behavioral analyst; or

k. Licensed clinical social worker.]; and

(g) Unless an extension of time is granted pursuant to subsection (4) of this section, the outpatient program shall become accredited by one (1) of the following within one (1) year of adding outpatient behavioral health services to the chemical dependency treatment program's license:

1. Joint Commission;

2. Commission on Accreditation of Rehabilitation Facilities;

3. Council on Accreditation; or

4. A nationally recognized accreditation organization.]

(4)[(a)] If a chemical dependency treatment services [outpatient] program participates in the Kentucky Medicaid

~~Program, the facility shall obtain [has not obtained] accreditation in accordance with 907 KAR 15:080, Section 2(4), [within the one (1) year timeframe required by subsection (3)(g) of this section, the program may request a one (1) time only extension to complete the accreditation process.~~

~~(b) A request for extension shall:~~

~~1. Be submitted in writing to the Office of Inspector General at least sixty (60) days prior to expiration of the one (1) year deadline described in subsection (3)(g) of this section;~~

~~2. Include evidence that the program initiated the process of becoming accredited within sixty (60) days of adding outpatient behavioral health services to the program's license and is continuing its efforts to obtain accreditation; and~~

~~3. Include an estimated timeframe by which approval of accreditation is anticipated.~~

~~(5) A program shall cease providing outpatient behavioral health services if the program fails to:~~

~~(a) Become accredited in accordance with subsection (3)(g) of this section;~~

~~(b) Request an extension in accordance with subsection (4) of this section, if accreditation has not been obtained; or~~

~~(c) Maintain accreditation.~~

~~(6) Proof of accreditation shall be provided to the Office of Inspector General upon receiving accreditation and at the time of annual renewal.]~~

Section 3. Administration and Operation. (1) The licensee shall be responsible for compliance with federal, state, and local laws and administrative regulations pertaining to the operation of chemical dependency treatment programs.

(2)(a) The governing authority shall appoint a program administrator who shall have a:

1. Bachelor's degree in a health or human services field;

2. Bachelor's degree in another field supplemented with one (1) year of work experience in the field of chemical dependency; or

3. High school diploma and four (4) years of experience in the field of chemical dependency.

(b) The governing authority shall establish, in writing:

1. Program goals and objectives; and

2. An evaluation plan for annual assessment of the attainment of the goals and objectives.

(3) Program administrator.

(a) The program administrator shall:

1. Be responsible for the daily management of the facility; and

2. Serve as the liaison between the governing authority and staff members.

(b) The program administrator shall keep the governing authority informed of the operations of the facility through reports and attendance at meetings of the governing authority.

(4) Administrative records and reports.

(a) A medication error, drug reaction, accident, or other incident involving a patient, visitor, or staff member[,] shall be documented in writing, signed by the program administrator and any witness to the event, and placed in an incident file.

(b) Licensure inspection reports, plans of correction, and program evaluations shall be available to the public, upon request, at the facility.

(5) Policies.

(a) Administrative policies. The program shall have a written administrative policy to cover each aspect of the facility's operation, as follows:

1. A description of the organizational structure, staffing, and allocation of responsibility and accountability;

2. A description of referral linkages with other facilities and providers;

3. A description of the services included in the program, including outpatient behavioral health services if provided;

4. An expense and revenue accounting system following generally accepted accounting procedures;

5. A volunteer program; and

6. Program evaluation and quality assurance review.

(b) Patient care policy. A written patient care policy shall be developed and shall include a description of:

1. Actions to be taken ~~if/when~~ a patient is lost, unaccounted

for, or otherwise absent without authorization;

2. Provisions for patient visitation and use of telephones;

3. Provision of emergency medical services; and

4. Patient admission and discharge criteria, including the categories of individuals accepted and not accepted by the program.

(c) Patient rights policy. A written policy shall be developed and maintained to enhance patient dignity and to protect human rights. The policy shall assure that each patient or client receiving outpatient behavioral health services is:

1. Informed of rules and regulations governing patient conduct and responsibilities, including the procedure for handling grievances;

2. Informed, prior to admission for rehabilitation or receipt of outpatient behavioral health services, of services available and charges for treatment, including charges not covered under Medicare, Medicaid, or other third-party payor;

3. Encouraged and assisted to:

a. Understand and exercise patient rights;

b. Voice grievances; and

c. Recommend changes in policies and services. Upon request by a patient, a grievance or recommendation shall be conveyed to that body within the organization with authority to take corrective action;

4. Presented with the opportunity to participate in the planning of his or her treatment;

5. Informed of the right to refuse to participate in experimental research;

6. Assured confidential treatment of records and presented with the opportunity to approve or refuse release of records to any individual not involved in his or her care, except as required by Kentucky law or third party payment contract; and

7. Treated with consideration, respect, and recognition of personal dignity and individuality, including privacy in treatment and personal health needs.

(6) Personnel.

(a) The governing authority shall:

1. Establish a personnel policy; and

2. Review the personnel policy at least one (1) time annually and update the policy as needed.

(b) There shall be a personnel record for each person employed by the chemical dependency treatment inpatient facility and, if applicable, the outpatient behavioral health services program, which shall include the following:

1. Evidence of the results of a tuberculosis test, performed either prior to or within the first week of employment and annually thereafter;

2. Evidence of education, training, and experience, and a copy of current license or certification credentials, if applicable;

3. Evidence that the employee received orientation to the facility's written policies within the first week of employment; and

4. Evidence of regular in-service training ~~that~~[which] corresponds with job duties and includes a list of training and dates completed.

(7) Staffing requirements.

(a) The chemical dependency treatment program shall have personnel sufficient to meet patient needs at the inpatient facility on a twenty-four (24) hour basis.

(b) The number and classification of personnel required shall be based on the number of patients and the individual treatment plans.

(8) Medical director. The chemical dependency treatment program's inpatient facility shall have a medical director who shall:

(a) Be a physician licensed in accordance with KRS 311.571.[:];

(b) Be responsible for the medical aspect of the program; and

(c) Have duties ~~that~~[which] shall include:

1. Patient admission;

2. Approval of patient treatment plans;

3. Participation in the quality assurance review; and

4. Provision of medical services, personally or by a designated physician, either in-house or on-call, on a twenty-four (24) hour basis.

(9) Interdisciplinary team. The chemical dependency treatment

program shall have an interdisciplinary team responsible for:

- (a) Developing individual treatment plans;
- (b) Developing aftercare plans; and
- (c) Conducting quality assurance reviews.

(10) Treatment director. The chemical dependency treatment program shall have a full time treatment director responsible for:

(a) Coordinating the interdisciplinary team in developing individual treatment plans;

- (b) Initiating a periodic review of each patient's treatment plan;
- (c) Supervising the maintenance of patient records; and

(d) Coordinating the interdisciplinary team in developing an aftercare plan for each patient to provide continuity of care.

(11) Nursing services within the chemical dependency treatment program's inpatient facility.

(a) Nursing services shall be available on a twenty-four (24) hour basis.

(b) The program shall have at least one (1) full-time registered nurse.

(c) If a registered nurse is not on duty, a licensed practical nurse shall be responsible for the nursing care of patients and a registered nurse shall be on call.

(12) Medical supervision. A physician, or registered nurse under the direction of a physician, shall supervise:

(a) Implementation of the medical aspects of the treatment plan; and

(b) All staff directly involved in patient medical care.

(13) In-service training.

(a) All personnel of the chemical dependency treatment program's inpatient facility or, if applicable, the outpatient behavioral health services program[,] shall participate in ongoing in-service training specific to the employee's job activities.

(b) Training shall include:

- 1. Thorough job orientation for new personnel; and
- 2. Regular in-service training emphasizing professional competence and the human relationship necessary for effective health care.

(14) Patient records of the chemical dependency treatment program's inpatient facility.

(a)1. An individual record shall be maintained for each patient.

2. Each entry shall be signed and dated by the person making the entry.

(b) At the time of admission, the following information shall be entered into the patient's record:

- 1. Name, date of admission, birth date and place, marital status, and Social Security number;
- 2. Person to contact in case of emergency;
- 3. Next of kin; and
- 4. Type and place of employment.

(c) The record shall contain documentation of medical services provided during detoxification and rehabilitation, including the results of physical examinations.

(d)1. The record shall contain the patient's treatment plan outlining goals and objectives for the individual during treatment.

2. The record shall also contain documentation of how the plan was implemented and of patient progress in meeting the goals and objectives outlined in the treatment plan.

(e) The record shall contain notation of medication administered, stating the date, time, dosage, and frequency of administration and the name of the person administering each dose.

(f) The record shall contain a discharge summary and a plan for aftercare.

(g) The discharge summary shall be entered in the patient's record within seven (7) days after discharge and shall include:

- 1. The course and progress of the patient with regard to the individual treatment plan;
- 2. General observations of the patient's condition initially, during treatment, and at discharge; and
- 3. The recommendations and arrangements for further treatment, including prescribed medications and aftercare.

(h) If the patient is referred to another service provider after discharge, and if the patient executes a written release, a copy of the discharge summary shall be [with the patient's permission] sent

to the provider with the patient's permission.

(i) After a patient's death or discharge, the completed record shall be placed in an inactive file and:

- 1. Retained for six (6) years; or
- 2. If a minor, three (3) years after the patient reaches the age of majority under state law, whichever is longest.

(15) Confidentiality and Security: Use and Disclosure.

(a) The chemical dependency treatment program shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law, including 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(b) The chemical dependency treatment program may use and disclose medical records. Use and disclosure shall be as established or required by:

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. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(c) This administrative regulation shall not be construed to forbid the chemical dependency treatment program from establishing higher levels of confidentiality and security than required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(16) Linkage agreements.

(a) The program shall have linkages through written agreements with providers of other levels of care that[which] may be medically indicated to supplement the services available in the program.

(b) Linkages shall include a hospital and an emergency medical transportation service in the area.

(17) Quality assurance. The program shall have a quality assurance program that includes an effective mechanism for reviewing and evaluating patient care on a regular basis by the interdisciplinary team.

(18) Medications.

(a) A prescription or nonprescription medication administered to a patient shall be noted in the patient's records with the date, time, and dosage, and signed by the person administering the medication.

(b) Each prescription medication shall be plainly labeled with the:

- 1. Patient's name;
- 2. Name of the drug;
- 3. Strength;
- 4. Name of pharmacy;
- 5. Date;
- 6. Physician name;
- 7. Caution statement; and
- 8. Directions for use.

(c)1. A prescription or nonprescription medication shall not be administered to a patient except on the written order of a physician or other practitioner acting within his or her statutory scope of practice.

2. A medication shall be administered by licensed personnel.

(d)1. Medication shall be kept in a locked storage area, which shall be well lighted and of sufficient size to permit storage without crowding.

2. Medication requiring refrigeration shall be kept in a separate locked box in a refrigerator.

3. Medication for external use shall be stored separately from medication administered by mouth or injection.

(e) A medication error or drug reaction shall be reported immediately to the medical director and treatment coordinator and an entry shall be made in the patient's record.

(f) An emergency medical kit, with contents approved by a physician, shall be:

- 1. Maintained at the facility; and

2. Inspected after use or at least monthly to remove deteriorated and outdated drugs and to ensure completeness of content.

(19) Restraints. Requirements for the use of restraints shall be met pursuant to KRS 202A.241 and 908 KAR 3:010, Section 9.

(20) Activities schedule. A daily schedule of program activities shall be posted in the chemical dependency treatment program's inpatient facility.

Section 4. Provision of Services. (1) Withdrawal management services [Detoxification]. A chemical dependency treatment program's inpatient facility shall provide medically monitored intensive inpatient [medical detoxification] services pursuant to the requirements of 902 KAR 20:111 directly or through another licensed provider for a patient who meets the:

(a) Diagnostic criteria for substance intoxication or withdrawal 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 medically monitored intensive inpatient services in accordance with the most recent version of The American Society of Addiction Medicine (ASAM) Criteria [requires detoxification].

(2) Rehabilitation. A chemical dependency treatment program's inpatient facility shall provide:

(a) Medical services as needed, under the supervision of a physician;

(b) Scheduled individual, group, and family counseling;

(c) Psychological testing and evaluation as needed;

(d) Education of the patient on the subject of chemical dependency and related lifestyle issues, including nutrition and communication skills;

(e) Recreational activities with facilities and equipment, consistent with the patient's needs and the therapeutic program;

(f) Referral to other rehabilitative or community service agencies providing services not available through the program; and

(g) Aftercare services provided directly or through arrangement with another agency.

(3) Physical examinations. Within ten (10) days prior to, or three (3) days after, admission to the chemical dependency treatment program's inpatient facility for rehabilitation, a patient shall have a physical examination with tests ordered by a physician.

(4) Psychosocial history.

(a) A patient in a chemical dependency treatment program's inpatient facility shall have a psychosocial history and assessment interview within seventy-two (72) hours after admission for rehabilitation.

(b) The following data shall be collected and recorded in the patient record:

1. History of alcohol and drug use;

2. A determination of current emotional state;

3. Vocational history;

4. Familial relationships; and

5. Educational background.

(5) Treatment plan.

(a) The interdisciplinary team, with the participation of the patient, shall develop an individual treatment plan within four (4) days after admission to the chemical dependency treatment program's inpatient facility for rehabilitation, based on the patient's medical evaluation and psychosocial history and assessment.

(b) The treatment plan shall:

1. Specify the services required for meeting the patient's needs;

2. Identify goals necessary for the patient to achieve, maintain, or reestablish physical health and adaptive capabilities;

3. Establish goals with both long-term and short-term objectives and the anticipated time expected to meet these goals; and

4. Identify the location and frequency of treatment procedures, including referrals for a required service not provided by the program.

(6) The treatment plan shall be reviewed and updated at least

weekly for the duration of the inpatient treatment.

(7)(a) The patient's family or significant others shall be involved in the treatment process, if approved by the patient.

(b) An attempt to involve family members or significant others shall be reported in the patient's medical record.

(8) Aftercare plan.

(a)1. A written aftercare plan shall be developed prior to completion of treatment in the chemical dependency treatment program's inpatient facility by the:

a. Interdisciplinary team;

b. Patient; and

c. With the patient's permission, [the] patient's family or significant others.

2. The aftercare plan shall be designed to establish continued contact for the support of the patient.

(b) The aftercare plan shall include methods and procedures to meet patient needs through direct contact or with assistance from other community human services organizations.

(c) If aftercare services are provided directly, review and update of the aftercare plan shall be conducted with the frequency of review determined by the:

1. Interdisciplinary team;

2. Patient; and

3. With the patient's permission, [the] patient's family or significant others.

(d) If the patient is referred to another agency for aftercare services, follow-up shall be conducted to determine if services are being provided.

Section 5. Provision of Outpatient Behavioral Health Services, Plan of Care, and Client Records. (1) Pursuant to Section 2(3) of this administrative regulation, a chemical dependency treatment program may provide one (1) or more of the following outpatient behavioral health services for individuals with a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis:

(a) Screening, which shall be provided face-to-face or via telehealth by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate to determine the:

1. Likelihood that an individual has a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis; and

2. Need for an assessment;

(b) Assessment, which shall:

1. Be provided face-to-face or via telehealth by a behavioral health professional, behavioral health professional under clinical supervision, a certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate who gathers information and engages in a process with the client, thereby enabling the professional to:

a. Establish the presence or absence of a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis;

b. Determine the client's readiness for change;

c. Identify the client's strengths or problem areas that[which] may affect the treatment and recovery processes; and

d. Engage the client in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the client to develop a plan of care if a clinical disorder or service need is assessed; and

4. Not include psychological or psychiatric evaluations or assessments;

(c) Psychological testing, which shall:

1. Be performed face-to-face or via telehealth by a licensed psychologist, licensed psychological associate, or licensed psychological practitioner; and

2. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities, and interpretation and written report of testing results;

(d) Crisis intervention, which:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to the client or another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities;

3. Shall be provided:

a. ~~[On-site at the chemical dependency treatment program's facility;~~

b. As an immediate relief to the presenting problem or threat; and

c. In a face-to-face, one (1) on one (1) encounter or as a comparable service provided via telehealth;

4. ~~[May include verbal de-escalation, risk assessment, or cognitive therapy;~~

5. Shall be provided by a:

a. Behavioral health professional;

b. Behavioral health professional under clinical supervision;

c. Certified alcohol and drug counselor;

d. Licensed clinical alcohol and drug counselor; or

e. Licensed clinical alcohol and drug counselor associate;

5.6. Shall be followed by a referral to noncrisis services, if applicable; and

6.7. May include:

a. Further service prevention planning, including:

(i) Lethal means reduction for suicide risk; or

(ii) Substance use disorder relapse prevention; or

b. Verbal de-escalation, risk assessment, or cognitive therapy;

(e) Mobile crisis services, which shall:

1. Be available twenty-four (24) hours a day, seven (7) days a week, every day of the year;

2. Be provided for a duration of less than twenty-four (24) hours;

3. Not be an overnight service;

4. Be a multi-disciplinary team based intervention that ensures access to acute substance use services and supports to:

a. Reduce symptoms or harm; or

b. Safely transition an individual in an acute crisis to appropriate, least restrictive level of care;

5. Involve all services and supports necessary to provide:

a. Integrated crisis prevention;

b. Assessment and disposition;

c. Intervention;

d. Continuity of care recommendations; and

e. Follow-up services;

6. Be provided in a home or community setting by a:

a. Behavioral health professional;

b. Behavioral health professional under clinical supervision;

c. Certified alcohol and drug counselor;

d. Licensed clinical alcohol and drug counselor; or

e. Licensed clinical alcohol and drug counselor associate; and

7. Ensure access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year;

(f) Day treatment, which shall:

1. Be a nonresidential, intensive treatment program designed for children who:

a. Have a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis;

b. Are under twenty-one (21) years of age; and

c. Are at high risk of out-of-home placement due to a behavioral health issue;

2. Consist of an organized, behavioral health program of treatment and rehabilitative services for substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis;

3. Have unified policies and procedures that address the organization's philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning;

4. Include the following:

a. Individual outpatient therapy, family outpatient therapy, or

group outpatient therapy;

b. Behavior management and social skill training;

c. Independent living skills that correlate to the age and development stage of the client; and

d. Services designed to explore and link with community resources before discharge and to assist the client and family with transition to community services after discharge;

5. Be provided as follows:

a. In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

b. On school days and during scheduled breaks;

c. In coordination with the child's individual educational plan or Section 504 plan if the child has an individual educational plan or Section 504 plan;

d. By personnel that includes a behavioral health professional, a behavioral health professional under clinical supervision, a certified alcohol and drug counselor, a licensed clinical alcohol and drug counselor, a licensed clinical alcohol and drug counselor associate, or a peer support specialist; and

e. According to a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider; and

6. Not include a therapeutic clinical service that is included in a child's individualized education plan;

(g) Peer support, which shall:

1. Be provided by a peer support specialist;

2. Be structured and scheduled nonclinical therapeutic activity with a client or group of clients;

3. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills; and

4. Be identified in the client's plan of care developed through a person-centered planning process;

(h) Intensive outpatient program services, which shall:

1. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

2. Be provided at least:

a. Three (3) hours per day at least three (3) days per week for adults; or

b. Six (6) hours per week for adolescents;

3. Include the following:

a. Individual outpatient therapy;

b. Group outpatient therapy;

c. Family outpatient therapy unless contraindicated;

d. Crisis intervention; or

e. Psycho-education during which the client or client's family member shall be:

(i) Provided with knowledge regarding the client's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

(ii) Taught how to cope with the client's diagnosis or condition in a successful manner;

4. Include a treatment plan, which shall:

a. Be individualized; and

b. Focus on stabilization and transition to a lower level of care;

5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate;

6. Include access to a board-certified or board-eligible psychiatrist for consultation;

7. Include access to a psychiatrist, other physician, or advanced practice registered nurse for medication prescribing and monitoring; and

8. Be provided in a setting with a minimum client-to-staff ratio of ten (10) clients to one (1) staff person;

(i) Individual outpatient therapy, which shall:

1. Be provided to promote the:

a. Health and wellbeing of the client; or

b. Recovery from a substance related disorder;

2. Consist of:

- a. A face-to-face encounter or telehealth consultation with the client; and
- b. A behavioral health therapeutic intervention provided in accordance with the client's plan of care;
3. Be aimed at:
 - a. Reducing adverse symptoms;
 - b. Reducing or eliminating the presenting problem of the client; and
 - c. Improving functioning;
4. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy unless additional time with the client is medically necessary in accordance with 907 KAR 3:130; and
5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate;
- (j) Group outpatient therapy, which shall:
 1. Be provided to promote the:
 - a. Health and wellbeing of the client; or
 - b. Recovery from a substance related disorder;
 2. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the client's plan of care;
 3. Excluding multi-family group therapy, be provided in a group setting of nonrelated individuals, not to exceed twelve (12) individuals in size. For group outpatient therapy, a nonrelated individual means any individual who is not a spouse, significant other, parent or person with custodial control, child, sibling, stepparent, stepchild, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild;
 4. Focus on the psychological needs of the client as evidenced in the client's plan of care;
 5. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;
 6. Not include physical exercise, a recreational activity, an educational activity, or a social activity;
 7. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy [per client] unless additional time is medically necessary in accordance with 907 KAR 3:130;
 8. Ensure that the group has a deliberate focus and defined course of treatment;
 9. Ensure that the subject of group outpatient therapy shall be related to each client participating in the group; and
 10. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate who shall maintain individual notes regarding each client within the group in the client's record;
- (k) Family outpatient therapy, which shall:
 1. Consist of a [face-to-face] behavioral health therapeutic intervention provided face-to-face or via telehealth through scheduled therapeutic visits between the therapist, at least one (1) member of the client's family, and the client unless the client's presence is not required in his or her plan of care;
 2. Address issues interfering with the relational functioning of the family;
 3. Seek to improve interpersonal relationships within the client's home environment;
 4. Be provided to promote the health and wellbeing of the client or recovery from a substance use disorder;
 5. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy [per client] unless additional time is medically necessary in accordance with 907 KAR 3:130; and
 6. Be provided by a behavioral health professional, a behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate;
 - (l) Collateral outpatient therapy, which shall consist of a face-to-face or telehealth behavioral health consultation:

1. With a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21), household member, legal representative, school personnel, or treating professional;
2. Provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate; and
3. Provided upon the written consent of a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21). Documentation of written consent shall be signed and maintained in the client's record;
- (m) Screening, brief intervention, and referral to treatment for substance use disorders, which shall:
 1. Be provided face-to-face or via telehealth;
 2. Be an evidence-based early intervention approach for an individual with non-dependent substance use prior to the need for more extensive or specialized treatment;
 3. [2.] Consist of:
 - a. Using a standardized screening tool to assess the individual for risky substance use behavior;
 - b. Engaging a client who demonstrates risky substance use behavior in a short conversation, providing feedback and advice;
 - c. Referring the client to therapy or other services that address substance use if the client is determined to need additional services; and
 4. [3.] Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate; [or]
- (n) Targeted case management services, which shall:
 1. Include services to an:
 - a. Adult or a child with substance use disorder; or
 - b. Adult or child with co-occurring mental health or substance use disorder and chronic or complex physical health issues;
 2. Be provided by a targeted case manager [as described in subsection (2) or (3) of this section]; and
 3. Include the following assistance:
 - a. Comprehensive assessment and reassessment of client needs to determine the need for medical, educational, social, or other services. The reassessment shall be conducted annually or more often if needed based on changes in the client's condition;
 - b. Development of a specific care plan that[which] shall be based on information collected during the assessment and revised if needed upon reassessment;
 - c. Referral and related activities, which may include:
 - (i) Scheduling appointments for the client to help the individual obtain needed services; or
 - (ii) Activities that help link the client with medical, social, educational providers, or other programs and services that[which] address identified needs and achieve goals specified in the care plan;
 - (iii) Changes in the needs or status of the client are reflected in the care plan; and
 - d. Monitoring, which shall be face-to-face and occur no less than once every three (3) months to determine that:
 - (i) Services are furnished according to the client's care plan;
 - (ii) Services in the care plan are adequate; and
 - (iii) Changes in the needs or status of the client are reflected in the care plan; and
 - e. Contacts with the client, family members, service providers, or others are conducted as frequently as needed to help the client:
 - (i) Access services;
 - (ii) Identify needs and supports to assist the client in obtaining services; and
 - (iii) Identify changes in the client's needs;
 - (o) Service planning, which shall be provided face-to-face by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate, any of which shall be of the client's choosing to:
 1. Assist the client in creating an individualized plan for services and developing measurable goals and objectives needed

for maximum reduction of the effects of a substance use disorder or co-occurring disorder;

2. Restore the client's functional level to the client's best possible functional level; and

3. Develop a service plan, which:

a. Shall be directed and signed by the client; and

b. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan; or

(p) Medication assisted treatment with behavioral health therapy, which shall:

1. Exclude methadone-based treatment restricted to licensure in accordance with 908 KAR 1:370 and 908 KAR 1:374;

2. Require a physician or physicians who prescribe FDA-approved drugs for the treatment of opioid addiction in adult patients to:

a. Document in the patient's record whether the patient is compliant with prescribed dosing as evidenced by the results of:

(i) A KASPER report released to the physician pursuant to KRS 218A.202(7)(e); and

(ii) Drug testing; and

b. Comply with the prescribing and dispensing standards in 201 KAR 9:270 for FDA-approved drugs used for the treatment of opioid addiction; and

3. Include individual and group outpatient therapy as a service and document monitoring of compliance with recommended non-medication therapies.

(2) [A case manager who provides targeted case management services to clients with a substance use disorder shall:

(a) Be a certified alcohol and drug counselor, meet the grandfather requirements of 907 KAR 15:040, Section 4(1)(a)3, or have a bachelor's degree in a human services field, including:

1. Psychology;
2. Sociology;
3. Social work;
4. Family studies;
5. Human services;
6. Counseling;
7. Nursing;
8. Behavioral analysis;
9. Public health;
10. Special education;
11. Gerontology;
12. Recreational therapy;
13. Education;
14. Occupational therapy;
15. Physical therapy;
16. Speech-language pathology;
17. Rehabilitation counseling; or
18. Faith-based education;

(b)1. Have a minimum of one (1) year of full-time employment working directly with adolescents or adults in a human service setting after completion of the requirements described in paragraph (a) of this subsection; or

2. Have a master's degree in a human services field as described in paragraph (a) of this subsection;

(c)1. Have successfully completed case management training in accordance with 908 KAR 2:260; and

2. Successfully complete continuing education requirements in accordance with 908 KAR 2:260; and

(d) Be supervised by a behavioral health professional who:

1. Has completed case management training in accordance with 908 KAR 2:260; and

2. Has supervisory contact at least two (2) times per month with at least one (1) of the contacts on an individual in person basis.

(3) A case manager who provides targeted case management services to clients with a mental health or substance use disorder and chronic or complex physical health issues shall:

(a) Meet the requirements of subsection (2)(a) of this section;

(b)1. After completion of a bachelor's degree, have a minimum

of five (5) years of experience providing service coordination or referring clients with complex behavioral health needs and co-occurring disorders or multi-agency involvement to community based services; or

2. After completion of a master's degree in a human services field as described in subsection (2)(a) of this section, have a minimum of two (2) years of experience providing service coordination or referring clients with complex behavioral health needs and co-occurring disorders or multi-agency involvement to community-based services;

(c)1. Have successfully completed case management training in accordance with 908 KAR 2:260; and

2. Successfully complete continuing education requirements in accordance with 908 KAR 2:260; and

(d) For a bachelor's level case manager, be supervised by a behavioral health professional who:

1. Has completed case management training in accordance with 908 KAR 2:260; and

2. Has supervisory contact at least three (3) times per month with at least two (2) of the contacts on an individual in person basis.

(4) Plan of care.

(a) Each client receiving outpatient behavioral health services from a chemical dependency treatment program shall have an individual plan of care signed by a behavioral health professional.

(b) A plan of care shall:

1. Describe the services to be provided to the client, including the frequency of services;

2. Contain measurable goals for the client to achieve, including the expected date of achievement for each goal;

3. Describe the client's functional abilities and limitations or diagnosis listed in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders;

4. Specify each staff member assigned to work with the client;

5. Identify methods of involving the client's family or significant others if indicated;

6. Specify criteria to be met for termination of treatment;

7. Include any referrals necessary for services not provided directly by the chemical dependency treatment program; and

8. State the date scheduled for review of the plan.

(c) The client shall participate to the maximum extent feasible in the development of his or her plan of care, and the participation shall be documented in the client's record.

(d)1. The initial plan of care shall be developed through multidisciplinary team conferences at least thirty (30) days following the first ten (10) days of treatment.

2. The plan of care for individuals receiving intensive outpatient program services shall be reviewed every thirty (30) days thereafter and updated every sixty (60) days or earlier if clinically indicated.

3. Except for intensive outpatient program services, the plan of care for individuals receiving any other outpatient behavioral health service described in subsection (1) of this section shall be reviewed and updated every six (6) months or earlier if clinically indicated.

4. The plan of care and each review and update shall be signed by the participants in the multidisciplinary team conference that developed it.

(3) [(5)] Client Records.

(a) A client record shall be maintained for each individual receiving outpatient behavioral health services.

(b) Each entry shall be current, dated, signed, and indexed according to the service received.

(c) Each client record shall contain:

1. An identification sheet, including the client's name, address, age, gender, marital status, expected source of payment, and referral source;

2. Information on the purpose for seeking a service;

3. If applicable, consent of appropriate family members or guardians for admission, evaluation, and treatment;

4. Screening information pertaining to the mental health or substance use disorder;

5. If applicable, a psychosocial history;

6. If applicable, staff notes on services provided;
7. If applicable, the client's plan of care;
8. If applicable, disposition;
9. If applicable, assigned status;
10. If applicable, assigned therapists; and
11. If applicable, a termination study recapitulating findings and events during treatment, clinical impressions, and condition on termination.

Section 6. Compliance with Building Codes, Ordinances, and Regulations; Chemical Dependency Treatment Program's Inpatient Facility. (1) The provisions of this administrative regulation shall not relieve the licensee from compliance with building codes, ordinances, and administrative regulations that[which] are enforced by city, county, or state jurisdictions.

(2) The following shall apply:

(a) Requirements for safety pursuant to the National Fire Protection Association 101, Life Safety Code adopted by the Kentucky Department of Housing, Buildings and Construction;

(b) Requirements for plumbing pursuant to 815 KAR 20:010 through 815 KAR 20:191; and

(c) Requirements for making buildings and facilities accessible to and usable by persons with disabilities.

(3) The facility shall be approved by the Fire Marshal's Office before a license or license renewal is granted.

(4) The facility shall receive necessary approval from appropriate agencies prior to occupancy and licensure.

(5) Physical and sanitary environment.

(a) The physical plant and overall facility environment shall be maintained to protect the safety and well-being of patients, personnel, and visitors.

(b) A person shall be designated responsible for services and for the establishment of practices and procedures in each of the following areas:

1. Plant maintenance;
2. Laundry operations either on site or off site; and
3. Housekeeping.

(c) The facility buildings, equipment, and surroundings shall be kept in good repair, neat, clean, free from accumulation of dirt and rubbish, and free from foul, stale, or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. Written housekeeping procedures shall be established for each area, and copies shall be available to personnel.

3. Equipment and supplies shall be provided for cleaning surfaces. The equipment shall be maintained in a safe, sanitary condition.

4. A hazardous cleaning solution, compound, or substance shall be labeled, stored in an approved container, and kept separate from nonhazardous cleaning materials.

5. The facility shall be free from insects, rodents, and their harborage.

6. Garbage and trash shall be stored in closed containers in an area separate from an area used for the preparation or storage of food.

7. The garbage and trash area shall be cleaned regularly and shall be in good repair.

(d) The facility shall have available at all times a quantity of linen essential to the proper care and comfort of residents.

1. Clean linen and clothing shall be stored in clean, dry, dust-free areas designated exclusively for this purpose.

2. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in a separate area ventilated to the exterior of the building.

Section 7. Chemical Dependency Treatment Program's Inpatient Facility Requirements and Special Conditions. (1) Patient rooms. Each patient room shall meet the [following] requirements established in this subsection.[:]

(a) The maximum room capacity shall be six (6) patients.

(b) The minimum room area, exclusive of toilet room, closet, locker, wardrobe, or vestibule, shall be:

1. 100 square feet for a one (1) bed room; and

2. Eighty (80) square feet per bed for multibed rooms.

(c) 1. Partitions, cubicle curtains, or placement of furniture shall be used to provide privacy in a multiperson room.

2. Ample closet and drawer space shall be provided for the storage of each patient's personal property.

(d) The placement of a patient in a multibed room shall be appropriate to the age and program needs of the patient.

(2) Lavatory.

(a) In a single or multibed room with a private toilet room, the lavatory may be located in the toilet room.

(b) If two (2) or more patients share a common toilet, a lavatory shall be provided in each patient room.

(3) Centralized toilet area.

(a) If a centralized toilet area is used, the facility shall provide, for each gender on each floor, one (1) toilet for each eight (8) residents or a major fraction thereof.

(b) Toilets shall be separated by a permanent partition and at least one (1) toilet for each gender shall be designed for wheelchair use.

(4) Patient baths.

(a) There shall be one (1) shower stall or one (1) bathtub for each fifteen (15) patients not individually served.

(b) Each bathtub or shower shall provide space for the private use of the fixture and for dressing.

(5) The patient shall be encouraged to take responsibility for maintaining his or her own living quarters and for other day-to-day housekeeping activities of the program, as appropriate to his or her clinical status.

(6) Dietary service.

(a) The facility shall have a dietary department, organized, directed, and staffed to provide quality food service and optimal nutritional care.

1. The dietary service shall be directed on a full-time basis by an individual who, by education or specialized training and experience, is knowledgeable in food service management.

2. The dietary service shall have at least one (1) dietician licensed pursuant to KRS 310.021 to supervise the nutritional aspects of patient care and to approve menus on at least a consultative basis.

3. If food service personnel are assigned a duty outside the dietary department, the duty shall not interfere with the sanitation, safety, or time required for regular dietary assignments.

(b) 1. A menu shall be planned, written, and rotated to avoid repetition.

2. Nutritional needs shall be met in accordance with:

a. Recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

b. Physician orders.

(c) 1. A meal served shall correspond with the posted menu.

2. If a change in the menu is necessary;

a. Substitution shall provide equal nutritive value; and

b. The change shall be recorded on the menu.

3. A menu shall be kept on file for thirty (30) days.

(d) Food shall be:

1. Prepared by methods that conserve nutritive value, flavor, and appearance; and

2. Served at the proper temperature.

(e) 1. At least three (3) meals shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and breakfast.

2. Each meal shall be served at a regular time and a nourishing between-meal or bedtime snack shall be offered.

(f) Food services shall be provided in accordance with 902 KAR 45:005.

Section 8. Physical environment of an off-campus extension or separate building on the campus of the chemical dependency treatment program's inpatient facility where outpatient behavioral health services are provided. (1) Accessibility. The off-campus extension or separate building on the campus of the chemical dependency treatment program's inpatient facility shall meet requirements for making buildings and facilities accessible to and

usable by individuals with physical disabilities pursuant to KRS 198B.260 and 815 KAR 7:120.

(2) Physical location and overall environment.

(a) The program shall:

1. Comply with building codes, ordinances, and administrative regulations ~~that~~which are enforced by city, county, or state jurisdictions;

2. Display a sign that can be viewed by the public that contains the facility name, hours of operation, and a street address;

3. Have a publicly listed telephone number and a dedicated phone number to send and receive faxes with a fax machine that shall be operational twenty-four (24) hours per day;

4. Have a reception and waiting area;

5. Provide a restroom; and

6. Have an administrative area.

(b) The condition of the physical location and the overall environment shall be maintained in a manner that assures the safety and well-being of clients, personnel, and visitors.

(3) Prior to occupancy, the facility shall have final approval from appropriate agencies.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 27, 2020, 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 July 20, 2020, 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 July 31, 2020. 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: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Kara Daniel and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum licensure requirements for the operation of chemical dependency treatment programs, including programs that elect to provide outpatient behavioral health services for individuals with a substance use disorder (SUD) or co-occurring disorder in which SUD is the primary diagnosis.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 216B.042(1), 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. Additionally, this administrative regulation is necessary to comply with KRS 216B.105, which, unless otherwise exempt, prohibits the operation of a health facility without a Cabinet-issued license.

(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 minimum licensure requirements for the operation of chemical dependency treatment 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 standards for licensed chemical dependency treatment 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 is being filed concurrently with the Department for Medicaid Services administrative regulation, 907 KAR 15:080, Coverage provisions and requirements regarding chemical dependency treatment center services. Key changes to this administrative regulation, 902 KAR 20:160, are as follows:

Amends Section 1(1)(a) to clarify that a psychiatrist, as included under the definition of "behavioral health professional", may be certified or eligible to apply for certification by the American Osteopathic Board of Neurology;

Updates the definition of "peer support specialist" to include a registered alcohol and drug peer support specialist, and adds clarifying language related to the supervision of peer support specialists;

Adds "targeted case manager" to Section 1, Definitions, and amends Section 5(2) and (3) to delete unnecessarily duplicative language related to case managers because the training requirements and qualifications for targeted case managers are established in 908 KAR 2:260;

Deletes the requirement for accreditation if a chemical dependency treatment program provides outpatient behavioral health services and clarifies that accreditation is a requirement for enrollment in the Kentucky Medicaid Program pursuant to 907 KAR 15:080, Section 2(3);

Replaces the "detoxification" with "medically monitored intensive inpatient services" and requires the patient to meet the diagnostic criteria for substance intoxication or withdrawal 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 also meet the dimensional criteria for medically monitored intensive inpatient services in accordance with the most recent version of The American Society of Addiction Medicine (ASAM) Criteria;

Allows for screening, assessment, psychological testing, crisis intervention, individual outpatient therapy, family outpatient therapy, collateral outpatient therapy, and screening, brief intervention, and referral to treatment for SUD to be provided via telehealth;

Removes the requirement for crisis intervention to be provided on-site at the program's facility;

Clarifies the number of hours per week that intensive outpatient services may be provided to adolescents; and

Adds service planning and medication assisted treatment as services that may be provided by a chemical dependency treatment program.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to align with the proposed changes to 907 KAR 15:080 and otherwise address necessary housekeeping changes.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.042 because it establishes minimum licensure requirements for the operation of chemical dependency treatment centers.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing standards for licensed chemical dependency treatment centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects the three (3) currently licensed chemical dependency treatment centers.

(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 licensed in accordance with this administrative regulation are required to comply with the standards established by this administrative regulation, including the following:

Must operate a structured inpatient program to provide medical, social, diagnostic, and treatment services to individuals with SUD;

Must ensure that inpatient services are provided under the medical direction of a physician;

Must provide continuous nursing services;

May provide one (1) or more of the following outpatient behavioral health services: screening, assessment, psychological testing, crisis intervention, mobile crisis services, day treatment, peer support, intensive outpatient program services, individual outpatient therapy, group outpatient therapy, family outpatient therapy, collateral outpatient therapy, screening, brief intervention, and referral to treatment for SUD, targeted case management, service planning, or medication assisted treatment;

Must be in compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the chemical dependency treatment program;

Must have a governing authority;

Must have a program administrator, interdisciplinary team, and treatment director;

Must maintain administrative policies, including patient care, patient rights, and personnel policies;

Must have a program for in-service training;

Must maintain client records in accordance with federal privacy and confidentiality rules;

Must have a process for quality assurance;

Must comply with requirements for administration and storage of medications;

Must post a daily schedule of activities;

Must comply with the requirements for providing medically monitored intensive inpatient services, rehabilitation services, physical examination of the patient, psychosocial history, and development of that patient's treatment plan and aftercare plan;

Must maintain compliance with applicable state and local laws relating to construction, plumbing, safety, and sanitation; and

Must maintain compliance with basic facility requirements for patient rooms, bathrooms, meal service, and overall physical environment.

(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 chemical dependency treatment centers to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensed chemical dependency treatment centers may enroll in the Kentucky Medicaid Program for reimbursement of covered services provided to Medicaid recipients in need of medically monitored intensive inpatient services, or outpatient services for the treatment of substance use disorder (SUD) or co-occurring disorder in which SUD is the primary diagnosis.

(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 for implementation of this administrative regulation.

(b) On a continuing basis: There are no additional costs to the cabinet for implementation of this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies are 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 administrative regulation.

(8) State whether or not this administrative regulation

established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities who elect to be regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and licensed chemical dependency treatment centers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042 and 216B.105

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? In accordance with 902 KAR 20:008, Section 3(2), the Cabinet collects a fee of \$1,000 + \$25 per bed from each chemical dependency treatment program. In accordance with this administrative regulation, the Cabinet collects \$250 for each outpatient extension site. These fees are existing provisions and have not been amended in 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? In accordance with 902 KAR 20:008, Section 3(2), the Cabinet collects a fee of \$1,000 + \$25 per bed from each chemical dependency treatment program. In accordance with this administrative regulation, the Cabinet collects \$250 for each outpatient extension site. These fees are existing provisions and have not been amended in this amendment.

(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 (+/-): See response above.

Expenditures (+/-): This administrative regulation is anticipated to have minimal fiscal impact to the cabinet.

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 - 1320d-8, 42 U.S.C. 209ee-3, 20 U.S.C. 1400, 29 U.S.C. 701

2. State compliance standards. KRS 216B.042, 216B.105

3. Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 2 prohibits programs from disclosing any information that would identify a person as having or having had substance use disorder, unless that person provides written consent.

45 C.F.R. 160, 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. 209ee-3 pertains to the confidentiality of patient records.

20 U.S.C. 1400 is the Individuals with Disabilities Education Act.

29 U.S.C. 701 is Section 504 of the Rehabilitation Act.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose 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
Office of Inspector General
Division of Health Care
(Amendment)

902 KAR 20:440. Facilities specifications, operation and services; residential crisis stabilization units.

RELATES TO: KRS 200.503(2), 210.005, 309.080(4), 309.0831, 309.130(2), 311.571, 311.840 – 311.862, 314.042, 319.050, 319.056, 319C.010, 335.080, 335.100, 335.300, 335.500, 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d-2 – 1320d-8, 42 U.S.C. 209ee-3, 42 C.F.R. Part 2

STATUTORY AUTHORITY: KRS 216B.042

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes minimum licensure requirements for the operation of residential crisis stabilization units that[which] serve at-risk children or children with severe emotional disabilities, at-risk adults or adults with severe mental illness, or individuals with substance use disorder or co-occurring disorders.

Section 1. Definitions. (1) "Behavioral health professional" means:

(a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry;

(b) A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

(g) A physician assistant as defined by KRS 311.840(3)[licensed under KRS 311.840 to 311.862];

(h) A marriage and family therapist as defined by [licensed and practicing in accordance with] KRS 335.300(2);

(i) A licensed professional clinical counselor as defined by [licensed and practicing in accordance with] KRS 335.500(3); or

(j) A licensed professional art therapist as defined by KRS 309.130(2).

(2) "Behavioral health professional under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate licensed and practicing in accordance with KRS 319.064;

(c) Marriage and family therapy[therapist] associate as defined by KRS 335.300(3);

(d) Social worker certified and practicing in accordance with

KRS 335.080;

(e) Licensed professional counselor associate as defined by KRS 335.500(4); or

(f) Licensed professional art therapist associate as defined by KRS 309.130(3).

(3) "Cabinet" means the Cabinet for Health and Family Services.

(4) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(5) "Chemical restraint" means the use of a drug that:

(a) Is administered to manage a resident's behavior in a way that reduces the [safety] risk to the resident or others;

(b) Has the temporary effect of restricting the resident's freedom of movement; and

(c) Is not a standard treatment for the resident's medical or psychiatric condition.

(6) "Child with a severe emotional disability" is defined by KRS 200.503(3).

(7) "Crisis stabilization unit" means a community-based facility that is not part of an inpatient unit and that[which] provides crisis services to no more than sixteen (16) [twelve (12)] clients who require overnight stays.

(8) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4);

(9) "Mechanical restraint" means any device attached or adjacent to a resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

(10) [(9)] "Peer support specialist" means a paraprofessional who:

(a) Is a registered alcohol and drug peer support specialist in accordance with KRS 309.0831; or

b[1]. Meets the application, training, examination, and supervision requirements of 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240; and

2.[(b)] Works under the supervision of one (1) of the following:

a.[1-] Physician;

b.[2-] Psychiatrist;

c.[3-] Licensed psychologist;

d.[4-] Licensed psychological practitioner;

e.[5-] Licensed psychological associate;

f.[6-] Licensed clinical social worker;

g.[7-] Licensed marriage and family therapist;

h.[8-] Licensed professional clinical counselor;

i.[9-] Certified social worker;

j.[10-] Licensed marriage and family therapy[therapist] associate;

k.[11-] Licensed professional counselor associate;

l.[12-] Licensed professional art therapist;

m.[13-] Licensed professional art therapist associate;

n.[14-] Advanced practice registered nurse;

o.[15-] Physician assistant; [or]

p.[16-] Certified alcohol and drug counselor; or

q. Licensed clinical alcohol and drug counselor.

(11) [(10)] "Personal restraint" means the application of physical force without the use of any device for the purpose of restraining the free movement of a resident's body and does not include briefly holding without undue force a resident in order to calm or comfort him or her or holding a resident's hand to safely escort him or her from one (1) area to another.

(12) [(11)] "Seclusion" means the involuntary confinement of a resident alone in a room or in an area from which the resident is physically prevented from leaving.

(13) [(12)] (12) "Serious mental illness", "severe mental illness", or "SMI" means a diagnosis of a major mental disorder as included in the current edition of the Diagnostic and Statistical Manual of Mental Disorders under:

(a) Schizophrenia spectrum and other psychotic disorders;

(b) Bipolar and related disorders;

(c) Depressive disorders; or

(d) Post-traumatic stress disorders (under trauma and stressor related disorders) ["Severe mental illness" means the conditions defined by KRS 210.005(2) and (3)].

~~(14) [(13)] "Substance use disorder" is defined by KRS 222.005(12)[means a cluster of cognitive, behavioral, and physiological symptoms resulting from use of a substance which the individual continues to take despite experiencing substance-related problems as a result, including:~~

- ~~(a) Intoxication;~~
- ~~(b) Withdrawal; or~~
- ~~(c) A substance induced mental health disorder].~~

~~(15) [(14)] "Time out" means the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.~~

Section 2. Licensure Application and Fees. (1) An applicant for initial licensure as a residential crisis stabilization unit shall submit to the Office of Inspector General:

(a) A completed Application for License to Operate a Residential Crisis Stabilization Unit; and

(b) An accompanying initial licensure fee in the amount of \$750, made payable to the Kentucky State Treasurer.

(2) At least sixty (60) calendar days prior to the date of annual renewal, a residential crisis stabilization unit shall submit to the Office of Inspector General:

(a) A completed Application for License to Operate a Residential Crisis Stabilization Unit; and

(b) An annual renewal fee of \$500, made payable to the Kentucky State Treasurer.

(3)(a) Name change. A residential crisis stabilization unit shall:

1. Notify the Office of Inspector General in writing within ten (10) calendar days of the effective date of a change in the unit's name; and

2. Submit a processing fee of twenty-five (25) dollars.

(b) Change of location. A residential crisis stabilization unit shall not change the location where the unit is operating~~operated~~ until an Application for License to Operate a Residential Crisis Stabilization Unit accompanied by a fee of \$100 is filed with the Office of Inspector General.

(c) Change of ownership.

1. The new owner of a residential crisis stabilization unit shall submit to the Office of Inspector General an Application for License to Operate a Residential Crisis Stabilization Unit accompanied by a fee of \$750 within ten (10) calendar days of the effective date of the ownership change.

2. A change of ownership for a license shall be deemed to occur in accordance with the criteria of 902 KAR 20:008, Section 2(16)~~[(16)] if more than twenty-five (25) percent of an existing residential crisis stabilization unit or capital stock or voting rights of a corporation is purchased, leased, or otherwise acquired by one (1) person from another].~~

(4) To obtain approval of initial licensure or renew a license to operate a residential crisis stabilization unit, the applicant or licensee shall be in compliance with this administrative regulation and federal, state, and local laws and administrative regulations pertaining to the operation of the unit.

~~Section 3. [Location. If an alcohol and other drug abuse treatment program licensed pursuant to 908 KAR 1:370 obtains separate licensure under this administrative regulation to operate a residential crisis stabilization unit, the unit shall be located off the campus of any residential treatment program licensed pursuant to 908 KAR 1:370.~~

~~Section 4.] Accreditation. (1) Unless an extension is granted pursuant to subsection (2) of this section, an entity licensed under this administrative regulation to operate a residential crisis stabilization unit shall become accredited within one (1) year of initial licensure by one (1) of the following:~~

- ~~(a) Joint Commission;~~
- ~~(b) Commission on Accreditation of Rehabilitation Facilities;~~
- ~~(c) Council on Accreditation; or~~
- ~~(d) A nationally recognized accreditation organization.~~

~~(2)(a) If a residential crisis stabilization unit has not obtained accreditation in accordance with subsection (1) of this section~~

within one (1) year of initial licensure, the facility may request a one (1) time only extension to complete the accreditation process.

(b) A request for extension shall:

1. Be submitted in writing to the Office of Inspector General at least sixty (60) days prior to the date of annual renewal;

2. Include evidence that the facility initiated the process of becoming accredited within sixty (60) days of initial licensure and is continuing its efforts to obtain accreditation; and

3. Include an estimated timeframe by which approval of accreditation is anticipated.

(3) The cabinet shall revoke the license if the residential crisis stabilization unit fails to meet one (1) of the following requirements:

(a)1. Become accredited in accordance with subsection (1) of this section; or

2.a.[(b)] Request an extension in accordance with subsection (2) of this section if accreditation will not be~~[has not been]~~ obtained within one (1) year of initial licensure; and

b. Become accredited during the extension granted in accordance with subsection (2) of this section; or

b.[(e)] Maintain accreditation.

(4) Proof of accreditation shall be provided to the Office of Inspector General upon receiving accreditation within one (1) year of initial licensure and at the time of annual renewal described in Section 2(2) of this administrative regulation.

Section 4.[5.] Administration and Operation. (1) The licensee shall be legally responsible for:

(a) The residential crisis stabilization unit;

(b) The establishment of administrative policy; and

(c) Ensuring compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the residential crisis stabilization unit.

(2) Executive director. The licensee shall establish lines of authority and designate an executive director who:

(a) May serve in a dual role as the residential crisis stabilization unit's program director described in subsection (5) of this section;

(b) May serve in a dual role as the executive director of a behavioral health services organization (BHSO) or alcohol and other drug treatment entity (AODE) if:

1. The residential crisis stabilization unit and the BHSO or AODE are owned by the same entity; and

2. The residential crisis stabilization unit has a linkage with the BHSO or AODE to assist with continuity of care if needed after discharge from the residential crisis stabilization unit;

(c) Shall be responsible for the administrative management of the residential crisis stabilization unit, including:

1. The total program of the unit in accordance with the unit's written policies; and

2. Evaluation of the unit as it relates to the needs of each resident; and

(d) Shall have a master's degree in business administration or a human services field, or a bachelor's degree in a human services field, including:

- 1. Social work;
- 2. Sociology;
- 3. Psychology;
- 4. Guidance and counseling;
- 5. Education;
- 6. Religion;
- 7. Business administration;
- 8. Criminal justice;
- 9. Public administration;
- 10. Child care administration;
- 11. Christian education;
- 12. Divinity;
- 13. Pastoral counseling;
- 14. Nursing;
- 15. Public health; or

16. Another human service field related to working with children with severe emotional disabilities or clients with severe mental illness.

(3) An executive director with a master's degree shall have a

minimum of two (2) years of prior supervisory experience in a human services program.

(4) An executive director with a bachelor's degree shall have a minimum of two (2) years of prior experience in a human services program plus two (2) years of prior supervisory experience in a human services program.

(5) A residential crisis stabilization unit shall have a program director who:

(a) May serve in a dual role as the program director of a BHSO or AODE if:

1. The residential crisis stabilization unit and the BHSO or AODE are owned by the same entity; and

2. The residential crisis stabilization unit has a linkage with the BHSO or AODE to assist with continuity of care if needed after discharge from the residential crisis stabilization unit; and

(b) Shall be a:

1. Psychiatrist;

2. Physician;

3. [Certified or] Licensed psychologist or certified psychologist with autonomous functioning;

4. Licensed psychological practitioner;

5. Advanced practice registered nurse;

6. Licensed professional clinical counselor;

7. Licensed marriage and family therapist;

8. Licensed professional art therapist;

9. Licensed ~~board-certified~~ behavior analyst; or

10. Licensed clinical social worker.

Section 5[6.] License Procedures. An entity licensed under this administrative regulation to operate a residential crisis stabilization unit shall be subject to the provisions of 902 KAR 20:008, Sections 1, 2, 5, 6, and 7.

Section 6[7.] Background Checks and Personnel Records. (1) All personnel of a residential crisis stabilization unit shall:

(a) Have a criminal record check performed upon initial hire and every two (2) years through the Administrative Office of the Courts or the Kentucky State Police;

(b) Not have a criminal conviction, or plea of guilty, to a:

1. Sex crime as specified in KRS 17.500;

2. Violent crime as specified in KRS 439.3401;

3. Criminal offense against a minor as specified in KRS 17.500; or

4. Class A felony; and

(c) Not be listed on the following:

1. Central registry established by 922 KAR 1:470;

2. Nurse aide or home health aide abuse registry established by 906 KAR 1:100; or

3. Caregiver misconduct registry established by ~~922 KAR 5:120E and~~ 922 KAR 5:120.

(2)[(a)] Prior to initial hire, an out-of-state criminal background information check shall be obtained for any applicant recommended for employment in a residential crisis stabilization unit who has resided or resides outside of the Commonwealth.[

~~(b) A residential crisis stabilization unit may use Kentucky's national background check system established by 906 KAR 1:190 to satisfy the background check requirements of subsections (1) and (2)(a) of this section.]~~

(3) A residential crisis stabilization unit shall perform annual criminal record and registry checks as described in subsection (1) of this section on a random sample of at least twenty-five (25) percent of all personnel.

(4) A personnel record shall be kept on each staff member and shall contain the following items:

(a) Name and address;

(b) Verification of all training and experience, including licensure, certification, registration, or renewals;

(c) Verification of submission to the background check requirements of subsections (1), (2), and (3) of this section;

(d) Performance appraisals conducted no less than annually; and

(e) Employee incident reports.

Section 7[8.] Quality Assurance and Utilization Review. (1)

The residential crisis stabilization unit 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 each client.

(2) The need for continuing services shall be evaluated 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:

(a) Discharge;

(b) Transfer; or

(c) Referral to another service provider, if appropriate.

Section 8[9.] Client Grievance Policy. The residential crisis stabilization unit shall have written policies and procedures governing client grievances, which shall include the following:

(1) A process for filing a written client grievance;

(2) An appeals process with time frames for filing and responding to a grievance in writing;

(3) Protection for a client from interference, coercion, discrimination, or reprisal; and

(4) Conspicuous posting of the grievance procedures in a public area to inform a client of:

(a) His or her right to file a grievance;

(b) The process for filing a grievance; and

(c) The address and telephone number of the cabinet's ombudsman.

Section 9[10.] Services and Staffing. (1) An entity licensed under this administrative regulation to operate a residential crisis stabilization unit shall provide the following services:

(a) Screening as described by 907 KAR 15:070, Section 3(2)(a);

(b) Assessment as described by 907 KAR 15:070, Section 3(2)(b);

(c) Treatment planning as described by 907 KAR 15:070, Section 3(2)(e);

(d) Individual ~~[outpatient]~~ therapy as described by 907 KAR 15:070, Section 3(2)(c);

(e) Group ~~[outpatient]~~ therapy as described by 907 KAR 15:070, Section 3(2)(d); and

(f) Psychiatric services.

(2) An entity licensed under this administrative regulation to operate a residential crisis stabilization unit may provide:

(a) Family therapy as described by 907 KAR 15:070, Section 3(2)(f); or

(b) Peer support by a peer support specialist as described by 907 KAR 15:070, Section 3(2)(g).

(3)(a) Except as provided by paragraph (b) of this subsection, the services identified in subsection (1) and (2)(a) of this section shall be delivered by a behavioral health professional or a behavioral health professional under clinical supervision.

(b) In addition to the professionals identified in paragraph (a) of this subsection, the services identified in subsection (1)(a), (b), (d), and (e) and subsection (2)(a) of this section may be provided by a certified alcohol and drug counselor or licensed clinical alcohol and drug counselor.

(c)1. A residential crisis stabilization unit shall have access to a board-certified or board-eligible psychiatrist twenty-four (24) hours per day, seven (7) days per week.

2. The psychiatrist may serve more than one (1) residential crisis stabilization unit and be available through telehealth consultation.

(d) The psychiatrist shall be available to evaluate, provide treatment, and participate in treatment planning.

(4) If a crisis stabilization program serves adults with a severe mental illness or substance use disorder and children with severe emotional disabilities:

(a) The programs shall not be located on the same campus; and

(b) The children's program shall serve clients:

1. Under the age of eighteen (18); or

2. Up to the age of twenty-one (21) if developmentally appropriate for the client.

(5) A residential crisis stabilization unit shall:

(a) Provide treatment for acute withdrawal as described by 907 KAR 15:070, Section 3(2)(h), if appropriate;

(b) Complete a mental status evaluation and physical health questionnaire of the client upon admission;

(c) Have written policies and procedures for:

1. Crisis intervention; and

2. Discharge planning, which shall begin at the time of admission and aftercare planning processes;

(d) Make referrals for physical health services to include diagnosis, treatment, and consultation for acute or chronic illnesses occurring during the client's stay in the residential crisis stabilization unit or identified during the admission assessment;

(e) Have a description of linkages with behavioral health services organizations licensed under 902 KAR 20:430 or other programs, including entities licensed as an AODE, that [which]:

1. Address identified needs and achieve goals specified in the treatment plan; and

2. Help promote continuity of care after discharge;

(f) Have at least one (1) direct-care staff member assigned direct-care responsibility for:

1. Every four (4) clients during normal waking hours; and

2. Every six (6) clients during normal sleeping hours;

(g) Ensure that administrative management of the unit is provided by the unit's executive director;

(h) Provide a training program for direct-care staff pertaining to:

1. The care of clients in a residential crisis stabilization unit;

2. Detection and reporting of abuse, neglect, or exploitation;

3. Emergency and safety procedures;

4. Behavior management, including de-escalation training;

5. Physical management procedures and techniques;

6. Suicide prevention and care; and

7. Trauma informed care; and

(i) Assure that each client shall be:

1. In need of short-term behavior management and at risk of placement in a higher level of care;

2. Able to take care of his or her own personal needs, if an adult;

3. Medically able to participate in services; and

4. Served in the least restrictive environment available in the community.

Section 10, [44-] Client Records. (1) A client record shall be maintained for each individual receiving services.

(2) Each entry shall be current, dated, signed, and indexed according to the service received.

(3) Each client record shall contain:

(a) An identification sheet, including the client's name, address, date of birth, gender, marital status, expected source of payment, and referral source;

(b) Information on the purpose for seeking a service;

(c) If applicable, consent via signature of an appropriate family member or guardian [members or guardians] for admission, evaluation, and treatment;

(d) Mental status evaluation and physical health questionnaire of the client taken upon admission;

(e) Staff notes for all services provided;

(f) Documentation of treatment planning, including diagnosis and all services to be provided; and

(g) Documentation of medication prescribing and monitoring used in treatment.

(4) Ownership.

(a) Client records shall be the property of the residential crisis stabilization unit.

(b) The original client record shall not be removed from the unit except by court order or subpoena.

(c) Copies of a client record or portions of the record may be used and disclosed. Use and disclosure shall be as established by subsection (6) of this section.

(5) 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) If a minor, three (3) years after the client reaches the age of majority under state law, whichever is the longest.

(6) Confidentiality and Security: Use and Disclosure.

(a) The residential crisis stabilization unit 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. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(b) The residential crisis stabilization unit may use and disclose client records. Use and disclosure shall be as established or required by:

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. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(c) A residential crisis stabilization unit 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. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

Section 11, [42-] Client Rights. (1) A residential crisis stabilization unit shall have written policies and procedures to ensure that the rights of a client are protected, including a statement of rights and responsibilities, which shall be:

(a) Provided at the time of admission:

1. To the client; or

2. If the client is a minor or incapacitated, to the client, client's parent, guardian, or other legal representative;

(b) Read to the client or client's parent, guardian, or other legal representative if requested or if either cannot read;

(c) Written in language that is understandable to the client;

(d) Conspicuously posted in a public area of the facility; and

(e) Cover the following:

1. The right to treatment, regardless of race, religion, or ethnicity;

2. The right to recognition and respect of personal dignity in the provision of all treatment and care;

3. The right to be provided treatment and care in the least restrictive environment possible;

4. The right to an individualized plan of care;

5. The right of the client, including the client's parent, guardian, or other legal representative [parents or guardian] if the client is a minor or incapacitated, to participate in treatment planning;

6. The nature of care, procedures, and treatment provided;

7. The right to an explanation of risks, side effects, and benefits of all medications and treatment procedures used;

8. The right to be free from verbal, sexual, physical, or mental abuse; and

9. The right, to the extent permitted by law, to refuse the specific medications or treatment procedures and the responsibility of the facility if the client refuses treatment, to seek appropriate legal alternatives or orders of involuntary treatment, or in accordance with professional standards, to terminate the relationship with the client upon reasonable notice.

(2) A residential crisis stabilization unit's written policies and procedures concerning client rights shall assure and protect the client's personal privacy within the constraints of his or her plan of care, including:

(a) Visitation by family or significant others in a suitable area of the facility; and

(b) Telephone communications with family or significant others at a reasonable frequency.

(3)(a) If a privacy right is limited, a full explanation shall be given to the client or the client's parent, [or] guardian, or other legal representative if the client is a minor or incapacitated.

(b) Documentation shall be included in the client's record of any privacy limitation.

(4) Information shall be provided to the client, or the client's parent, ~~[or] guardian, or other legal representative~~ if the client is a minor ~~or incapacitated~~, regarding the use and disposition of special observation and audio visual techniques, which may include the following:

- (a) One (1) way vision mirror;
- (b) Audio recording;
- (c) Video tape recording;
- (d) Television;
- (e) Movie; or
- (f) Photographs.

(5)(a) If the residential crisis stabilization unit serves children as described in Section 9[10](4)(b) of this administrative regulation, written policy and procedures shall be developed in consultation with professional and direct-care staff to provide for behavior management of residents, including the use of a time-out room.

(b)1. Behavior management techniques:

a. Shall be explained fully to each client and, if the client is a minor or incapacitated, the client's parent, guardian, or other legal representative; and

b. May include time out or personal restraint.

2. Prone holds, chemical restraint, and mechanical restraint shall be prohibited in a residential crisis stabilization unit.

(c) The unit shall prohibit cruel and unusual disciplinary measures including the following:

1. Corporal punishment;
2. Forced physical exercise;
3. Forced fixed body positions;
4. Group punishment for individual actions;
5. Verbal abuse, ridicule, or humiliation;
6. Denial of three (3) balanced nutritional meals per day;
7. Denial of clothing, shelter, bedding, or personal hygiene needs;
8. Denial of access to educational services;
9. Denial of visitation, mail, or phone privileges for punishment;
10. Exclusion of the resident from entry to his or her assigned living unit; and
11. Personal restraint or seclusion as a punishment or employed for the convenience of staff.

(d) Written policy shall prohibit residents from administering disciplinary measures upon one another and shall prohibit persons other than professional or direct-care staff from administering disciplinary measures to residents.

(6) If personal restraint is used as a safe behavioral management technique, the residential crisis stabilization unit shall have a policy ~~that~~which shall:

- (a) Describe criteria for appropriate use of personal restraint;
- (b) Describe documentation requirements; and
- (c) Ensure that staff who implement the use of personal restraint shall:

1. Have documented training in the proper use of the procedure used;
2. Be certified in physical management by a nationally-recognized training program in which certification is obtained through skilled-out testing; and
3. Receive annual training and recertification in crisis intervention and behavior management.

Section 12.[13.] Reports of Abuse, Neglect, or Exploitation. (1) A residential crisis stabilization unit shall have written policies ~~that~~which assure:

(a) The reporting of cases of abuse, neglect, or exploitation of adults and children to the cabinet pursuant to KRS Chapters 209 and 620; and

(b) That a resident may file a complaint with the cabinet concerning resident abuse, neglect, or exploitation.

(2) The unit shall have evidence that all allegations of abuse, neglect, or exploitation are thoroughly investigated internally, and shall prevent further potential abuse while the investigation is in progress.

Section 13.[14.] Medication Prescribing and Monitoring in a Residential Crisis Stabilization Unit. (1) Medication prescribing and

monitoring shall be under the direction of a licensed psychiatrist, a licensed physician supervised by a psychiatrist, or an APRN certified in psychiatric-mental health nursing practice who meets the requirements established in 201 KAR 20:057.

(2) Prescriptions concerning medication shall not exceed an order for more than five (5) refills.

(3) Medication prescribing and monitoring used in treatment shall be recorded in the staff notes and on a special medications chart in the client record.

(4) A copy of the prescription shall be kept in the client record.

(5) A blood or other laboratory test or examination shall be performed in accordance with accepted medical practice on each client receiving medication prescribed or administered by the residential crisis stabilization unit staff.

(6) Drug supplies shall be stored under proper sanitary, temperature, light, and moisture conditions.

(7) Medication kept by the unit shall be properly labeled.

(8) A medication shall be stored in the originally received container unless transferred to another container by a pharmacist or another person licensed to transfer the medication.

(9) Medication kept in the unit shall be kept in a locked cabinet.

(10) A controlled substance shall be kept under double lock (for example, in a locked box in a locked cabinet).

(11) There shall be a controlled substances record, in which is recorded:

- (a) The name of the client;
- (b) The date, time, dosage, balance remaining, and method of administration of each controlled substance;
- (c) The name of the prescribing physician or other ordering practitioner acting within the scope of his or her license to practice; and
- (d) The name of the nurse who administered it, or staff who supervised the self-administration.

(12) Access to the locked cabinet shall be restricted to a designated medication nurse or other authorized personnel.

(13) Medication to be self-administered shall be made available to the client at the time of administration.

Section 14.[15.] Facility Requirements. (1) Living Unit. A living unit shall be located within a single building in which there is at least 120 square feet of space for each resident in the facility.

(2) Bedrooms.

(a) More than four (4) clients shall not sleep in the same~~a~~ bedroom.

(b) A bedroom shall be equipped with a bed for each client.

(c) A bed shall:

1. Be at least thirty-six (36) inches wide and at least five (5) feet in length;
2. Be long and wide enough to accommodate the client's size;
3. Have a mattress cover, two (2) sheets, a pillow, and bed covering to keep the client comfortable;
4. Be equipped with a support mechanism and a clean mattress; and
5. Be placed so that a client shall not experience discomfort because of proximity to a radiator or heat outlet, or exposure to a draft.

(d) There shall be separate sleeping quarters for males and females.

(e) A client shall not be housed in a room, a 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) Bathrooms.

(a) For every eight (8) residents, each residential crisis stabilization unit shall have at least one (1):

1. Wash basin with hot and cold water;
2. Bath or shower with hot and cold water; and
3. Flush toilet.

(b) If separate toilet and bathing facilities are not provided, males and females shall not be permitted to use those facilities at the same time.

(4) Living area.

(a) The living area shall provide comfortable seating for all

clients housed within the residential crisis stabilization unit.

(b) Each living unit shall be equipped with a:

1. Working sink; and
2. Stove and refrigerator, unless a kitchen is directly available within the same building as the living unit.

(5) There shall be adequate lighting, heating, heated water, and ventilation.

(6) There shall be space for a client to store personal belongings, including a receptacle where personal property may be stored and locked.

(7) The residential crisis stabilization unit shall be kept in good repair, neat, clean, free from accumulations of dirt and rubbish, and free from foul, stale, and musty odors.

(8) The residential crisis stabilization unit shall be kept free from insects and rodents with their harborages eliminated.

(9) The residential crisis stabilization unit shall establish an infection control system that[which] includes training personnel on proper hygiene related to infections prevalent among alcohol and other drug abusers.

(10) Services shall be provided in an area where clients are ensured privacy and confidentiality.

Section 15.[46:] Facility Specifications. (1) A residential crisis stabilization unit shall:

(a) Be of safe and substantial construction;

(b) Be in compliance with applicable state and local laws relating to zoning, construction, plumbing, safety, and sanitation;

(c) Be approved by the State Fire Marshal's office prior to initial licensure or if the unit changes location; and

(d) Meet requirements for making buildings and facilities accessible to and usable by individuals with physical disabilities pursuant to KRS 198B.260 and 815 KAR 7:120.

(2) A residential crisis stabilization unit shall:

(a) Have a written emergency plan and procedures for meeting potential disasters such as fires or severe weather;

(b) Post the emergency plan conspicuously in a public area of the unit and provide a copy to all personnel;

(c) Provide training for all personnel on how to report a fire, extinguish a small fire, and evacuate a building; and

(d) Practice fire drills monthly, with a written record kept of all practiced fire drills, detailing the date, time, and residents who participated.

Section 16.[47:] Denial and Revocation. (1) The cabinet shall deny an Application for License to Operate a Residential Crisis Stabilization Unit if:

(a) Any person with ownership interest in the residential crisis stabilization unit has had previous ownership interest in a health care facility that had its license revoked or voluntarily relinquished its license as the result of an investigation or pending disciplinary action;

(b) Any person with ownership interest in the residential crisis stabilization unit has been discontinued from participation in the Medicaid Program due to fraud or abuse of the program; or

(c) The applicant fails after the initial inspection to submit an acceptable plan of correction or fails to submit an acceptable amended plan of correction within the timeframes required by 902 KAR 20:008, Section 2(13) [(5)].

(2) The cabinet shall revoke a license if it finds that:

(a) In accordance with KRS 216B.105(2), there has been a substantial failure by the residential crisis stabilization unit to comply with the provisions of this administrative regulation;

(b) The residential crisis stabilization unit fails to submit an acceptable plan of correction or fails to submit an acceptable amended plan of correction within the timeframes required by 902 KAR 20:008, Section 2(13) [(5)]; or

(c) The residential crisis stabilization unit is terminated from participation in the Medicaid Program pursuant to 907 KAR 1:671.

(3) The denial or revocation of a residential crisis stabilization unit's license shall be mailed to the applicant or licensee, by certified mail, return receipt requested, or by personal service. Notice of the denial or revocation shall set forth the particular reasons for the action.

(4) The denial or revocation shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within the thirty (30) day period, files a request in writing for a hearing with the cabinet.

(5) Urgent action to suspend a license.

(a) The cabinet shall take urgent action to suspend a residential crisis stabilization unit's license if the cabinet has probable cause to believe that the continued operation of the unit would constitute an immediate danger to the health, welfare, or safety of its residents.

(b)1. The residential crisis stabilization unit shall be served with notice of the hearing on the urgent suspension to be held no sooner than twenty (20) days from the delivery of the notice.

2. Notice of the urgent suspension shall set forth the particular reasons for the action.

(6) Notice of a hearing on an urgent suspension shall be served on the residential crisis stabilization unit by certified mail, return receipt requested, or by personal service.

(7)(a) Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the urgent suspension.

(b) The urgent suspension shall be affirmed if there is substantial evidence of an immediate danger to the health, safety, or welfare of the residents.

(8) The decision rendered under subsection (7) of this section shall be a final order of the agency on the matter, and any party aggrieved by the decision may appeal to circuit court.

(9) If the cabinet issues an urgent suspension, the cabinet shall take action to revoke the residential crisis stabilization unit's license pursuant to subsection (3) of this section if:

(a) The facility fails to attend the expedited hearing; or

(b) The decision rendered under subsection (7) of this section affirms that there is substantial evidence of an immediate danger to the health, safety, or welfare of the residents.

(10) Pursuant to KRS 216B.050, the cabinet may compel obedience to its lawful orders.

Section 17.[48:] Incorporation by Reference. (1) The OIG 20:440, "Application for License to Operate a Residential Crisis Stabilization Unit", October 2014 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. 902 KAR 20:440

ADAM MATHER, Inspector General

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 11, 2020

FILED WITH LRC: May 13, 2020 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 27, 2020, 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 July 20, 2020, 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 July 31, 2020. 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: Donna Little, Deputy Executive Director, 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 person: Kara Daniel and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum licensure requirements for the operation of residential crisis stabilization units that serve at-risk children or children with severe emotional disabilities, at-risk adults or adults with severe mental illness, or individuals with substance use disorder or co-occurring disorders.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 216B.042(1), 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 minimum licensure requirements for the operation of residential crisis stabilization units.

(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 residential crisis stabilization units.

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

(a) How the amendment will change this existing administrative regulation: This amendment is being filed concurrently with the Department for Medicaid Services administrative regulation, 907 KAR 15:070, Coverage provisions and requirements regarding services provided by residential crisis stabilization units. Key changes to this administrative regulation, 902 KAR 20:440, are as follows:

Amends Section 1(1)(a) to clarify that a psychiatrist, as included under the definition of "behavioral health professional", may be certified or eligible to apply for certification by the American Osteopathic Board of Neurology;

Amends Section 1(7) to allow a crisis stabilization unit to serve sixteen (16) clients rather than twelve (12) clients who require overnight stays;

Adds a definition for "licensed clinical alcohol and drug counselor";

Updates the definition of "peer support specialist" to include a registered alcohol and drug peer support specialist, and allow for peer support specialists to work under the supervision of a licensed clinical alcohol and drug counselor;

Deletes the prohibition against co-locating a residential alcohol and other drug treatment entity (AODE) and a residential crisis stabilization program on the same campus;

Adds language to allow the executive director to serve in a dual role as the executive director of a residential crisis stabilization unit and an AODE if both facilities are owned by the same entity and meet other criteria;

Adds language to allow the program director to serve in a dual role as the program director of a residential crisis stabilization unit and an AODE if both facilities are owned by the same entity and meet other criteria;

Removes language allowing residential crisis stabilization units to use the Kentucky National Background Check Program (NBCP) to satisfy the State-level criminal record check requirements. Use of the NBCP was originally included in this administrative regulation by error, prior to receiving additional information from the Federal Bureau of Investigation, which clarified that the Kentucky State Police relies upon a federal statute, Section 6201 of the Affordable Care Act (ACA), for the submission of fingerprints to the FBI for direct patient access employees in voluntarily participating long-term care settings. Because residential crisis stabilization units are not included in the statutory definition of a

"long-term care facility" or otherwise covered under Section 6201 of the ACA, residential crisis stabilization units cannot voluntarily participate in the Kentucky NBCP;

Adds a cross-reference to applicable sections in 907 KAR 15:070 as it relates to the following services provided by residential crisis stabilization units: screening, assessment, treatment planning, individual therapy, group therapy, family therapy, and peer support;

Allows a licensed clinical alcohol and drug counselor to provide screening, assessment, treatment planning, individual therapy, group therapy, and family therapy;

Adds a cross-reference to 907 KAR 15:070, Section 3, if a residential crisis stabilization unit provides treatment for acute withdrawal; and

Adds licensed AODE programs as one of the programs with which residential crisis stabilization units may have a linkage to help promote continuity of care after discharge.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to align with the proposed changes to 907 KAR 15:070.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.042 because it establishes minimum licensure requirements for the operation of residential crisis stabilization units.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing standards for licensed residential crisis stabilization units.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects the four (4) currently licensed residential crisis stabilization units.

(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 licensed in accordance with this administrative regulation are required to comply with the standards established by this administrative regulation, including:

State Fire Marshal approval of the facility's location prior to initial licensure or a change of location;

Accreditation within one (1) year of initial licensure, unless an extension is granted;

Compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the residential crisis stabilization unit;

Designation of an executive director who may also serve as the residential crisis stabilization unit's program director if the individual is a behavioral health professional as defined by Section 1 of this administrative regulation;

Compliance with abuse registry and criminal background check requirements;

Implementation of a process for quality assurance and utilization review;

Implementation of a process for responding to client grievances;

Mandatory delivery of screening, assessment, treatment planning, individual therapy, group therapy, and psychiatric services;

Optional delivery of family therapy and peer support services;

Treatment for acute withdrawal, if appropriate;

Retention of client records;

Implementation of administrative and personnel policies as well as policies that ensure that the rights of clients are protected;

Medication prescribing and monitoring;

Compliance with basic facility requirements for bedrooms, bathrooms, living areas, infection control, and cleanliness; and

Compliance with applicable state and local laws relating to zoning, construction, plumbing, safety, and sanitation as well as emergency plans in the event of a disaster or severe weather.

(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 residential crisis stabilization units to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensed residential crisis stabilization units may enroll in the Kentucky Medicaid Program for reimbursement of covered services provided to Medicaid recipients in need of short-term crisis services.

(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 for implementation of this administrative regulation.

(b) On a continuing basis: There are no additional costs to the cabinet for implementation of this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies are 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 administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities who elect to be regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and licensed residential crisis stabilization units.

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? The Cabinet collects an initial fee of \$750 and annual renewal fee of \$500 from each licensed residential crisis stabilization unit. These fees are existing requirements and are not being amended 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? This administrative regulation will generate an initial licensure fee of \$750 and annual licensing fee of \$500 for each entity licensed as a residential crisis stabilization unit. These fees are existing requirements and are not being amended by this amendment.

(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 (+/-): See response above.

Expenditures (+/-): This administrative regulation is anticipated

to have minimal fiscal impact to the cabinet.

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 C.F.R. Parts 160, 164, and 42 U.S.C. 1320d-2 - 1320d-8, 42 U.S.C. 209ee-3, 42 C.F.R. Part 2

2. State compliance standards. KRS 216B.042

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 160, 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. 209ee-3 pertains to the confidentiality of patient records. 42 C.F.R. Part 2 prohibits programs from disclosing any information that would identify a person as having or having had substance use disorder, unless that person provides written consent.

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 Medicaid Services Division of Policy and Operations (Amendment)

907 KAR 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

RELATES TO: KRS 205.520, 21 U.S.C. 823(g)(2), 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by residential crisis stabilization units.

Section 1. General Coverage Requirements. (1) For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(a) Medically necessary; and

(b) Provided:

1. To a recipient; and

2. By a residential crisis stabilization unit that meets the provider participation requirements established in Section 2 of this administrative regulation.

(2)(a) Direct contact between a practitioner and a recipient shall be required for each service.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(3) A service shall be:

(a) Stated in the recipient's plan of care; and

(b) Provided in accordance with the recipient's plan of care.

(4) A residential crisis stabilization unit shall establish a plan of care for each recipient receiving services.

Section 2. Provider Participation. (1) To be eligible to provide services under this administrative regulation, a residential crisis stabilization unit shall:

(a) Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

(b) Except as established in subsection (3) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

(c) Be licensed as a residential crisis stabilization unit in accordance with 902 KAR 20:440;

(d) Comply with the requirements established in 902 KAR 20:440;

(e) Have:

1. For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;
2. Demonstrated experience in serving individuals with behavioral health disorders;
3. The administrative capacity to ensure quality of services;
4. A financial management system that provides documentation of services and costs; and
5. The capacity to document and maintain individual case records;

(f) Be a community-based, residential program that offers an array of services including:

1. Screening;
2. Assessment;
3. Treatment planning;
4. Individual [outpatient] therapy;
5. Group [outpatient] therapy;
6. Psychiatric services;
7. Family [outpatient] therapy at the option of the residential crisis stabilization unit; [or]
8. Peer support at the option of the residential crisis stabilization unit;
9. Withdrawal management if treating substance use disorders;

or

10. Medication assisted treatment if treating substance use disorders;

(g) Provide services in order to:

1. Stabilize a crisis and divert an individual from a higher level of care;
2. Stabilize an individual and provide treatment for acute withdrawal, if applicable; and
3. Re-integrate an individual into the individual's community or other appropriate setting in a timely fashion;

(h) Not be part of a hospital;

(i) Be used when an individual:

1. Is experiencing a behavioral health crisis that cannot be safely accommodated within the individual's community; and
2. Needs overnight care that is not hospitalization;

(j) Except as established in subsection (2)(a) of this section, not contain more than sixteen (16) beds;

(k) Except as established in subsection (2)(b) of this section, not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate;

(l) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability;

(m) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the Act;

(n) Have the capacity to employ staff authorized to provide treatment services in accordance with this section and to coordinate the provision of services among team members;

(o) Have the capacity to provide the full range of residential crisis stabilization services as stated in Section 3(2) of this administrative regulation and on a twenty-four (24) hour a day, seven (7) day a week, every day of the year basis;

(p) Have access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year; [and]

(q) Have knowledgeable staff regarding mental health, substance use, or co-occurring disorders based on the population being served; and

(r) For the treatment or stabilization of withdrawal management symptoms for substance use disorder or co-occurring disorders, have a planned and structured regimen of twenty-four (24) hour

professionally directed evaluation, observation, medical monitoring, and addiction treatment[disorders].

(2) If every recipient receiving services in the:

(a) Single unit is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in subsection (1)(j) of this section shall not apply; or

(b) Multiple units is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in subsection (1)(k) of this section shall not apply.

(3) In accordance with 907 KAR 17:015, Section 3(3), a residential crisis stabilization unit that[which] provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

Section 3. Covered Services. (1)(a) Except as specified in the requirements stated for a given service, the services covered may be provided for:

1. A mental health disorder;
2. A substance use disorder; or
3. Co-occurring mental health and substance use disorders.

(b) Residential crisis stabilization services shall be provided in a residential crisis stabilization unit.

(2) Residential crisis stabilization services shall include the services established in this subsection.[:]

(a) A screening provided by:

1. ~~A licensed psychologist;~~
2. ~~A licensed psychological practitioner;~~
3. ~~A licensed clinical social worker;~~
4. ~~A licensed professional clinical counselor;~~
5. ~~A licensed professional art therapist;~~
6. ~~A licensed marriage and family therapist;~~
7. ~~A physician;~~
8. ~~A psychiatrist;~~
9. ~~An advanced practice registered nurse; or~~
10. ~~A behavioral health practitioner under supervision except~~

for a licensed assistant behavior analyst;

(b) An assessment provided by:

1. ~~A licensed psychologist;~~
2. ~~A licensed psychological practitioner;~~
3. ~~A licensed clinical social worker;~~
4. ~~A licensed professional clinical counselor;~~
5. ~~A licensed professional art therapist;~~
6. ~~A licensed marriage and family therapist;~~
7. ~~A physician;~~
8. ~~A psychiatrist;~~
9. ~~An advanced practice registered nurse;~~
10. ~~A licensed behavior analyst; or~~
11. ~~A behavioral health practitioner under supervision;~~

(c) Individual outpatient therapy or group outpatient therapy provided by:

1. ~~A licensed psychologist;~~
2. ~~A licensed psychological practitioner;~~
3. ~~A licensed clinical social worker;~~
4. ~~A licensed professional clinical counselor;~~
5. ~~A licensed professional art therapist;~~
6. ~~A licensed marriage and family therapist;~~
7. ~~A physician;~~
8. ~~A psychiatrist;~~
9. ~~An advanced practice registered nurse;~~
10. ~~A licensed behavior analyst; or~~
11. ~~A behavioral health practitioner under supervision;~~

(d) Treatment planning provided by:

1. ~~A licensed psychologist;~~
2. ~~A licensed psychological practitioner;~~
3. ~~A licensed clinical social worker;~~
4. ~~A licensed professional clinical counselor;~~
5. ~~A licensed professional art therapist;~~
6. ~~A licensed marriage and family therapist;~~
7. ~~A physician;~~
8. ~~A psychiatrist;~~
9. ~~An advanced practice registered nurse;~~
10. ~~A licensed behavior analyst; or~~
11. ~~A behavioral health practitioner under supervision except~~

for a certified alcohol and drug counselor;

(e) Psychiatric services provided by:

1. A psychiatrist; or

2. An APRN; or

(f) At the option of the residential crisis stabilization unit:

1. Family outpatient therapy provided by:

a. A licensed psychologist;

b. A licensed psychological practitioner;

c. A licensed clinical social worker;

d. A licensed professional clinical counselor;

e. A licensed professional art therapist;

f. A licensed marriage and family therapist;

g. A physician;

h. A psychiatrist;

i. An advanced practice registered nurse; or

j. A behavioral health practitioner under supervision except for a licensed assistant behavior analyst; or

2. Peer support provided by a peer support specialist working under the supervision of:

a. An approved behavioral health service provider; or

b. A certified alcohol and drug counselor.

(3)(a) A screening shall:

1. Establish the need for a level of care evaluation to determine the most appropriate and least restrictive service to maintain the safety of the individual who may have a mental health disorder, substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder; [and]

3. Establish the need for an in-depth assessment of the number and duration of risk factors including:

a. Imminent danger and availability of lethal weapons;

b. Verbalization of suicidal or homicidal risk;

c. Need of immediate medical attention, including withdrawal management needs;

d. Positive and negative coping strategies;

e. Lack of family or social supports;

f. Active psychiatric diagnosis; or

g. Current drug and alcohol use;

4. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the practitioner to:

a. Establish the presence or absence of a mental health disorder, a substance use disorder, or co-occurring disorders;

b. Determine the individual's readiness for change;

c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the individual to develop a treatment and service plan; [and]

4. Not include psychological or psychiatric evaluations or assessments;

5. If being made for the treatment of a substance use disorder, utilize a multi-dimensional assessment that complies with The ASAM Criteria; and

6. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(c) Individual [outpatient] therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; or

b. Restoration of a recipient to their best possible functional level[Recovery] from a substance use disorder, a mental health disorder, or co-occurring disorders;

2. Consist of:

a. A face-to-face, one (1) on one (1) encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified crisis treatment plan;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functioning; [and]

4. Not exceed three (3) hours per day unless additional time is medically necessary; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(d)1. Group [outpatient] therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified crisis treatment plan;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level[Recovery] from a substance use disorder, a mental health disorder, or co-occurring disorders;

c. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified crisis treatment plan;

d. Be provided to a recipient in a group setting:

(i) Of nonrelated individuals; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's crisis treatment plan;

f. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h. Not exceed three (3) hours per day per recipient unless additional time is medically necessary.

2. The group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of group outpatient therapy shall relate to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

5. The group shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(e)1. Treatment planning shall:

a. Involve assisting a recipient in creating an individualized plan for services needed;

b. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

c. Be performed using a person-centered planning process.

2. A service plan:

a. Shall be directed by the recipient;

b. Shall include practitioners of the recipient's choosing; and

c. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

3. A service plan shall be completed by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(f)[4.] Family [outpatient] therapy shall:

1. Consist of a face-to-face behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment;[-]

2. [Family-outpatient therapy shall:]

a. Be provided to promote:

(i) The health and wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level[Recovery] from a substance use disorder, a mental health disorder, or co-occurring disorders; and

b. Not exceed three (3) hours per day per individual unless additional time is medically necessary; and

3. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(g)1. Peer support services provided by a peer support specialist working under the supervision of an approved behavioral health practitioner shall:

a. Be social and emotional support that is provided by an individual who is experiencing a mental health disorder, a substance use disorder, or co-occurring mental health and substance use disorders to a recipient by sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided by a self-identified consumer, parent, or family member:

(i) Of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services; and

(ii) Who has been trained and certified in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

f. Be coordinated within the context of a comprehensive, individualized treatment plan developed through a person-centered planning process;

g. Be identified in each recipient's treatment plan; and

h. Be designed to directly contribute to the recipient's individualized goals as specified in the recipient's treatment plan.

2. To provide peer support services, a residential crisis stabilization unit shall:

a. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 2:230, or 908 2:240;

b. ~~[Use an approved behavioral health services provider or certified alcohol and drug counselor to supervise peer support specialists;~~

c.~~]~~Have the capacity to coordinate the provision of services among team members; ~~[and]~~

d.~~[d.]~~ Have the capacity to provide on-going continuing education and technical assistance to peer support specialists;

e. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

f. Require peer support services provided to recipients in a group setting to not exceed eight (8) individuals within any group at one (1) time.

(h)1. Withdrawal management services for substance use disorder shall:

a. Meet the service criteria for medically monitored intensive inpatient services for adults and medically monitored high-intensity inpatient services for adolescents in accordance with The ASAM Criteria; and

b. Comply with services pursuant to the requirements of 902 KAR 20:111.

2. A recipient who is receiving withdrawal management services shall:

a. Meet the current dimensional admissions criteria for

withdrawal management level of care as found in The ASAM Criteria; and

b. Not require the full resources of an acute care hospital or a medically managed inpatient treatment program.

3. Withdrawal management services shall be provided by:

a. A physician or psychiatrist;

b. A physician assistant;

c. An advanced practice registered nurse; or

d. Any other approved behavioral health practitioner or nurse with oversight by a physician, advanced practice registered nurse, or a physician assistant.

(i)1. Medication assisted treatment shall be available per patient choice for the treatment of a substance use disorder or co-occurring disorders.

2. Medication assisted treatment shall be provided by a provider who:

a. Is:

(i) A physician licensed to practice medicine under KRS Chapter 311; or

(ii) An advanced practice registered nurse (APRN);

b. Meets standards in accordance with 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C 823(g)(2) to prescribe buprenorphine products; and

d. Has experience and knowledge in addiction medicine.

(3) For those recipients being treated for a substance use disorder, care coordination shall include at minimum:

(a) Referring the recipient to appropriate community services;

(b) Facilitating medical and behavioral health follow-ups;

(c) Linking to appropriate levels of substance use treatment within the continuum in order to provide on-going support; and

(d) Facilitating medication assisted treatment as necessary, per patient choice, if the medication is not offered on-site.

(4) The extent and type of a screening shall depend upon the problem of the individual seeking or being referred for services.

(5) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

(6) After July 1, 2021, if treating substance use disorders, the facility shall possess an appropriate ASAM level of care certification in accordance with The ASAM Criteria.

(7) The department shall not reimburse for a service billed by or on behalf of an entity or individual who is not a billing provider.

Section 4. Additional Limits and Non-covered Services or Activities. (1) The following services or activities shall not be covered under this administrative regulation:

(a) A service provided to:

1. A resident of:

a. A nursing facility; or

b. An intermediate care facility for individuals with an intellectual disability;

2. An inmate of a federal, local, or state:

a. Jail;

b. Detention center; or

c. Prison; or

3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;

(b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the residential crisis stabilization unit;

(c) A consultation or educational service provided to a recipient or to others;

(d) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of "face-to-face";

(e) Travel time;

(f) A field trip;

(g) A recreational activity;

(h) A social activity; or

(i) A physical exercise activity group.

- (2) Residential crisis stabilization services shall not include:
- (a) Room and board;
 - (b) Educational services;
 - (c) Vocational services;
 - (d) Job training services;
 - (e) Habilitation services;
 - (f) Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;
 - (g) Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;
 - (h) Recreational activities;
 - (i) Social activities; or
 - (j) Services required to be covered elsewhere in the state plan.
- (3)(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation.
- (b) A third party contract shall not be covered under this administrative regulation.

Section 5. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the service is covered, during the same time period.

(2) For example, if a recipient is receiving a residential crisis stabilization service from a community mental health center, the department shall not reimburse for the same service provided to the same recipient during the same time period by a residential crisis stabilization unit.

Section 6. Records Maintenance, Documentation, Protection, and Security. A residential crisis stabilization unit shall maintain a current health record for each recipient in accordance with 902 KAR 20:440.

Section 7. Medicaid Program Participation Compliance. (1) A residential crisis stabilization unit shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672; and
- (c) All applicable state and federal laws.

(2)(a) If a residential crisis stabilization unit receives any duplicate payment or overpayment from the department, regardless of reason, the residential crisis stabilization unit shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

- 1. Interpreted to be fraud or abuse; and
- 2. Prosecuted in accordance with applicable federal or state law.

(3)(a) When the department makes payment for a covered service and the residential crisis stabilization unit accepts the payment:

- 1. The payment shall be considered payment in full;
- 2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the residential crisis stabilization unit.

(b)1. A residential crisis stabilization unit may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

- a. Recipient requests the service; and
- b. Residential crisis stabilization unit makes the recipient aware in advance of providing the service that the:
 - (i) Recipient is liable for the payment; and
 - (ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1_ of this paragraph, the:

a. Residential crisis stabilization unit shall not bill the department for the service; and

b. Department shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the residential crisis stabilization unit regarding the service.

(4)(a) The signature of the residential crisis stabilization unit's

staff or representative shall indicate that the residential crisis stabilization unit attests that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

- 1. Department or its designee;
- 2. Cabinet for Health and Family Services, Office of Inspector General or its designee;
- 3. Kentucky Office of Attorney General or its designee;
- 4. Kentucky Office of the Auditor for Public Accounts or its designee; or
- 5. United States General Accounting Office or its designee.

(c) If a residential crisis stabilization unit receives a request from the department or its designee to provide a claim, related information, related documentation, or record for auditing purposes, the residential crisis stabilization unit shall provide the requested information to the department within the timeframe requested by the department.

(d)1. All services provided shall be subject to review for recipient or provider fraud or abuse; and compliance with this administrative regulation and state and federal law.

2. Willful abuse by a residential crisis stabilization unit shall result in the suspension or termination of the residential crisis stabilization unit from Medicaid Program participation.

Section 8. Third Party Liability. A residential crisis stabilization unit shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A residential crisis stabilization unit that chooses to use electronic signatures shall:

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

Section 10. Auditing Authority. The department shall have the authority to audit any:

- (1) Claim;
- (2) Medical record; or
- (3) Documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

Section 12. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LISA LEE, Commissioner

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 11, 2020

FILED WITH LRC: May 13, 2020 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 27, 2020 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 July 20, 2020, 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 July 31, 2020. 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: Donna Little, Deputy Executive Director, 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 and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by residential crisis stabilization units (RCSUs).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with federal mandates. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment" for all recipients. 42 U.S.C. 1396a(a)(23) is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope.

(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 complying with federal mandates and enhancing and ensuring Medicaid recipients' access to behavioral health services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by complying with federal mandates and enhancing and ensuring Medicaid recipients' access to behavioral health 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: The amendments to this administrative regulation

combine a previously separate description of who may perform a service and a description of the service itself. In addition, the amendments implement additional requirements relating to withdrawal management and medication assisted treatment, including a requirement that the services be conducted in accordance with the ASAM Criteria.

(b) The necessity of the amendment to this administrative regulation: These amendments are necessary to comply with existing OIG administrative regulations, implement an SUD 1115 waiver, and provide additional formatting improvements.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments conform to the content of the authorizing statutes by implementing an SUD 1115 waiver.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effective administration of the statutes by providing additional clarity and requirements relating to residential crisis stabilization units.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: There are currently fifteen (15) entities that are providing residential crisis stabilization unit (RCSU) services under this administrative regulation. Medicaid recipients who qualify for behavioral health services provided by an RCSU will also be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Facilities and providers may need to comply with the ASAM Criteria in order to provide certain services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the Medicaid Program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement, and the benefit of providing additional services. Behavioral health professionals authorized to provide services in a residential crisis stabilization unit will benefit by having more employment opportunities in Kentucky. Medicaid recipients in need of behavioral health services will benefit from an expanded base of providers from which to receive these services.

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

(a) Initially: DMS does not anticipate additional costs in implementing this administrative regulation.

(b) On a continuing basis: DMS does not anticipate additional costs in implementing 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 the Social Security Act, Title XIX and matching funds of 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 is necessary to implement this administrative regulation.

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

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(10)(B) and 42 U.S.C. 1396a(a)(30)(A).

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

KRS 205.6311 requires the Department for Medicaid Services to "promulgate administrative regulations. . . to expand the behavioral health network to allow providers to provide services within their licensure category."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area. Medicaid reimbursement for services is required to be consistent with efficiency, economy and quality of care and be sufficient to attract enough providers to assure access to services. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "...provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal 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 for Medicaid Services will be affected by the amendment to 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.010(1), 194A.030(2), 194A.050(1), 205.520(3), 205.6311, 42 U.S.C. 1396a(a)(10)(B), and 42 U.S.C. 1396a(a)(30)(A).

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

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

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

state or local government.

(c) How much will it cost to administer this program for the first year? DMS does not expect any additional costs in administering these amendments during the first year.

(d) How much will it cost to administer this program for subsequent years? DMS does not expect any additional costs in administering these amendments 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:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amendment)

907 KAR 15:080. Coverage provisions and requirements regarding ~~outpatient~~ chemical dependency treatment center services.

RELATES TO: KRS 205.520, 205.622, 309.0831, 21 U.S.C. 823(q)(2), 42 U.S.C. 1396a(a)(10)(B), 1396a(a)(23), 42 C.F.R. 435.1010

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program outpatient and inpatient chemical dependency treatment center services.

Section 1. General Coverage Requirements. (1) For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(a) Medically necessary; and

(b) Provided:

1. To a recipient; and

2. By a chemical dependency treatment center that meets the provider participation requirements established in Section 2 of this administrative regulation.

(2)(a) Direct~~[Face-to-face]~~ contact between a practitioner and a recipient shall be required for each service except for:

1. Collateral outpatient therapy for a recipient under the age of twenty-one (21) years if the collateral outpatient therapy is in the recipient's plan of care;

2. A family outpatient therapy service in which the corresponding current procedural terminology code establishes that the recipient is not present; or

3. A psychological testing service comprised of interpreting or explaining results of an examination or data to family members or others in which the corresponding current procedural terminology code establishes that the recipient is not present.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(3) A billable unit of service shall be actual time spent delivering a service in an~~[a face-to-face]~~ encounter.

(4) A service shall be:

(a) Stated in the recipient's plan of care; and

(b) Provided in accordance with the recipient's plan of care.

(5)(a) A chemical dependency treatment center shall establish a plan of care for each recipient receiving services from a chemical dependency treatment center.

(b) A plan of care shall meet the treatment plan requirements established in 902 KAR 20:160.

Section 2. Provider Participation. (1)(a) To be eligible to provide services under this administrative regulation, a chemical dependency treatment center shall:

1. Be currently enrolled as a provider in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

2. Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

3. Be licensed as a chemical dependency treatment center to provide outpatient and inpatient behavioral health services in accordance with 902 KAR 20:160; and

4. Have:

a. For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;

b. Documented experience in serving individuals with mental health, substance use, or co-occurring~~behavioral health~~ disorders;

c. The administrative capacity to ensure quality of services;

d. A financial management system that provides documentation of services and costs; and

e. The capacity to document and maintain individual health records.

(b) The documentation referenced in paragraph (a)4.b. of this subsection shall be subject to audit by:

1. The department or its designee;

2. The Cabinet for Health and Family Services, Office of Inspector General;

3. A managed care organization, if the chemical dependency treatment center is enrolled in its network;

4. The Centers for Medicare and Medicaid Services;

5. The Kentucky Office of the Auditor of Public Accounts; or

6. The United States Department of Health and Human Services, Office of the Inspector General.

(2) In accordance with 907 KAR 17:015, Section 3(3), a chemical dependency treatment center that~~which~~ provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(3) A chemical dependency treatment center shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the act.

(4)(a) Except as provided by paragraph (b) of this subsection, a chemical dependency treatment center shall possess accreditation, within one (1) year of initial enrollment, by one (1) of the following:

1. The Joint Commission;

2. The Commission on Accreditation of Rehabilitation Facilities;

3. The Council on Accreditation; or

4. A nationally recognized accreditation organization.

(b) The department shall grant a one (1) time extension to a chemical dependency treatment center that requests a one (1) time extension to complete the accreditation process, if the request is submitted at least ninety (90) days prior to expiration of provider enrollment.

Section 3. Covered Services.

(1) Reimbursement shall not be available for services performed within a chemical dependency treatment program by a:

(a) Licensed behavior analyst;

(b) Licensed assistant behavior analyst;

(c) Registered behavior technician; or

(d) Community support associate.

(2) The services covered may be provided for a substance use disorder or co-occurring disorders.

(3)(2) The [following] services listed in this subsection shall be covered under this administrative regulation in accordance with the requirements established in this subsection.:

(a) A screening, crisis intervention, or intensive outpatient program service provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;

3. A certified psychologist with autonomous functioning;

4. A licensed clinical social worker;

5. A licensed professional clinical counselor;

6. A licensed professional art therapist;

7. A licensed marriage and family therapist;

8. A physician;

9. A psychiatrist;

10. An advanced practice registered nurse;

11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

12. A certified psychologist working under the supervision of a board-approved licensed psychologist;

13. A licensed clinical alcohol and drug counselor in accordance with Section 11 of this administrative regulation; or

14. A behavioral health practitioner under supervision, except for a licensed assistant behavior analyst;

(b) An assessment provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;

3. A certified psychologist with autonomous functioning;

4. A licensed clinical social worker;

5. A licensed professional clinical counselor;

6. A licensed professional art therapist;

7. A licensed marriage and family therapist;

8. A physician;

9. A psychiatrist;

10. An advanced practice registered nurse;

11. A licensed behavior analyst;

12. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

13. A certified psychologist working under the supervision of a board-approved licensed psychologist;

14. A licensed clinical alcohol and drug counselor in accordance with Section 11 of this administrative regulation; or

15. A behavioral health practitioner under supervision;

(c) Psychological testing provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;

3. A certified psychologist with autonomous functioning;

4. A licensed psychological associate working under the supervision of a board-approved licensed psychologist; or

5. A certified psychologist working under the supervision of a board-approved licensed psychologist;

(d) Day treatment or mobile crisis services provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;

3. A certified psychologist with autonomous functioning;

4. A licensed clinical social worker;

5. A licensed professional clinical counselor;

6. A licensed professional art therapist;

7. A licensed marriage and family therapist;

8. A physician;

9. A psychiatrist;

10. An advanced practice registered nurse;

11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

12. A certified psychologist working under the supervision of a board-approved licensed psychologist;

13. A licensed clinical alcohol and drug counselor in accordance with Section 11 of this administrative regulation;

14. A behavioral health practitioner under supervision, except for a licensed assistant behavior analyst; or

15. A peer support specialist working under the supervision of an approved behavioral health services provider;

(e) Peer support provided by a peer support specialist working under the supervision of an approved behavioral health services provider;

(f) Individual outpatient therapy, group outpatient therapy, or collateral outpatient therapy provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;

3. A certified psychologist with autonomous functioning;

4. A licensed clinical social worker;

5. A licensed professional clinical counselor;
 6. A licensed professional art therapist;
 7. A licensed marriage and family therapist;
 8. A physician;
 9. A psychiatrist;
 10. An advanced practice registered nurse;
 11. A licensed behavior analyst;
 12. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
 13. A certified psychologist working under the supervision of a board-approved licensed psychologist;
 14. A licensed clinical alcohol and drug counselor in accordance with Section 11 of this administrative regulation; or
 15. A behavioral health practitioner under supervision;
 (g) Family outpatient therapy provided by:
 1. A licensed psychologist;
 2. A licensed psychological practitioner;
 3. A certified psychologist with autonomous functioning;
 4. A licensed clinical social worker;
 5. A licensed professional clinical counselor;
 6. A licensed professional art therapist;
 7. A licensed marriage and family therapist;
 8. A physician;
 9. A psychiatrist;
 10. An advanced practice registered nurse;
 11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
 12. A certified psychologist working under the supervision of a board-approved licensed psychologist;
 13. A licensed clinical alcohol and drug counselor in accordance with Section 11 of this administrative regulation; or
 14. A behavioral health practitioner under supervision, except for a licensed assistant behavior analyst; or
 (h) A screening, brief intervention, and referral to treatment for a substance use disorder or SBIRT provided by:
 1. A licensed psychologist;
 2. A licensed psychological practitioner;
 3. A certified psychologist with autonomous functioning;
 4. A licensed clinical social worker;
 5. A licensed professional clinical counselor;
 6. A licensed professional art therapist;
 7. A licensed marriage and family therapist;
 8. A physician;
 9. A psychiatrist;
 10. An advanced practice registered nurse;
 11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
 12. A certified psychologist working under the supervision of a board-approved licensed psychologist;
 13. A licensed clinical alcohol and drug counselor in accordance with Section 11 of this administrative regulation; or
 14. A behavioral health practitioner under supervision, except for a licensed assistant behavior analyst.
 (3)(a) A screening shall:
 1. Determine the likelihood that an individual has a substance use disorder;
 2. Not establish the presence or specific type of disorder; [and]
 3. Establish the need for an in-depth assessment;
4. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
5. Be provided by:
a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
 (b) An assessment shall:
 1. Include gathering information and engaging in a process with the individual that enables the practitioner to:
 a. Establish the presence or absence of a substance use disorder;
 b. Determine the individual's readiness for change;
 c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing[the development of] an appropriate treatment relationship;
 2. Establish or rule out the existence of a clinical disorder or service need;
 3. Include working with the individual to develop a plan of care; [and]
 4. Not include psychological or psychiatric evaluations or assessments;
 5. Utilize a multidimensional assessment that complies with the most current edition of The ASAM Criteria to determine the most appropriate level of care;
6. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
7. Be provided by:
a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or
b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
 (c) Psychological testing shall:
 1. Include[
 a.] a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities;
2. Include an[and b.] interpretation and a written report of testing results;
3. Be face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
4. Be provided by:
a. A licensed psychologist;
b. A certified psychologist with autonomous functioning;
c. A licensed psychological practitioner;
d. A certified psychologist under supervision; or
e. A licensed psychological associate under supervision[and
2. Be performed by an individual who has met the requirements of KRS Chapter 319 related to the necessary credentials to perform psychological testing].
 (d) Crisis intervention:
 1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:
 a. The recipient; or
 b. Another individual;
 2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for individuals;
 3. Shall be provided:
 a. [On-site in the facility where the outpatient behavioral health services are provided;
 b.]As an immediate relief to the presenting problem or threat; and
b.[c.] In a one (1) on one (1)[face-to-face, one-on-one] encounter between the provider and the recipient, which is delivered either face-to-face or via telehealth if appropriate pursuant to 907 KAR 3:170;
 4. Shall be followed by a referral to non-crisis services if applicable; [and]
 5. May include:
 a. Further service prevention planning including[that includes]:
 (i) Lethal means reduction for suicide risk; or
 (ii) Substance use disorder relapse prevention; or
 b. Verbal de-escalation, risk assessment, or cognitive therapy;
and
 6. Shall be provided by:
a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or
b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
 (e) Mobile crisis services shall:
 1. Be available twenty-four (24) hours per day, seven (7) days per week, every day of the year;
 2. Be provided for a duration of less than twenty-four (24) hours;
 3. Not be an overnight service;
 4.[Ensure access to a board-certified or board-eligible

psychiatrist twenty-four (24) hours per day, seven (7) days per week, every day of the year;

3. ~~Be provided for a duration of less than twenty-four (24) hours;~~

4. ~~Not be an overnight service;~~

5. ~~Be a face-to-face, multi-disciplinary team-based intervention in a home or community setting that ensures access to substance use disorder services and supports to:~~

a. Reduce symptoms or harm; or

b. Safely transition an individual in an acute crisis to the appropriate least restrictive level of care;

5. ~~[6.] Involve all services and supports necessary to provide:~~

a. Integrated crisis prevention;

b. Assessment and disposition;

c. Intervention;

d. Continuity of care recommendations; and

e. Follow-up services;

6. ~~Include access to a board-certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year; and~~

7. ~~Be provided by:~~

a. ~~An approved behavioral health practitioner, as limited by subsection (1) of this section;~~

b. ~~An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section; or~~

c. ~~A peer support specialist who:~~

(i) ~~Is under the supervision of an approved behavioral health practitioner, as limited by subsection (1) of this section; and~~

(ii) ~~Provides support services for a mobile crisis service[face-to-face in a home or community setting].~~

(f)1. Day treatment shall be a non-residential, intensive treatment program for an individual under the age of twenty-one (21) years who has:

a. A substance use disorder; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment shall:

a. ~~Be face-to-face;~~

b. ~~Consist of an organized, behavioral health program of treatment and rehabilitative services;~~

c. ~~[b.] Include:~~

(i) ~~Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;~~

(ii) ~~Behavior management and social skills training;~~

(iii) ~~Independent living skills that correlate to the age and developmental stage of the recipient; or~~

(iv) ~~Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and~~

d. ~~[c.] Be provided:~~

(i) ~~In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);~~

(ii) ~~On school days and during [on non-instructional weekdays during the school year including] scheduled school breaks;~~

(iii) ~~In coordination with the recipient's individualized educational plan or Section 504 plan if the recipient has an individualized educational plan or Section 504 plan; and~~

(iv) ~~[Under the supervision of a licensed or certified approved behavioral health services provider or a behavioral health practitioner working under clinical supervision; and~~

(v) ~~With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.~~

3. To provide day treatment services, a chemical dependency treatment center shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with this section and to coordinate the provision of services among team members; and

b. Knowledge of substance use disorders and co-occurring disorders.

4. Day treatment shall not include a therapeutic clinical service

that is included in a child's individualized education program or Section 504 plan.

5. Day treatment shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section;

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section; or

c. A peer support specialist who:

(i) Is under the supervision of an approved behavioral health practitioner, as limited by subsection (1) of this section; and

(ii) Provides support services for a day treatment service.

(g)1. Peer support services shall:

a. Be emotional support that is provided by:

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220 [or 907 KAR 2:240] and who is experiencing or has experienced a substance use disorder to a recipient by sharing a similar substance use disorder in order to bring about a desired social or personal change;

(ii) A parent or other family member, who has been trained and certified in accordance with 908 KAR 2:230, of a child having or who has had a substance use disorder to a parent or family member of a child sharing a similar substance use disorder in order to bring about a desired social or personal change;[or]

(iii) An individual who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing a substance use disorder [A family member who has been trained and certified in accordance with 908 KAR 2:230 of a child having or who has had a substance use disorder to a parent or family member of a child sharing a similar substance use disorder in order to bring about a desired social or personal change]; or

(iv) A registered alcohol and drug peer support specialist who has been trained and certified in accordance with KRS 309.0831 and is a self-identified consumer of substance use disorder services who provides emotional support to others with substance use disorder to achieve a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided face-to-face;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

f. Except for the engagement into substance use disorder treatment through an emergency department bridge clinic,[e-] be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;

g. ~~[f.] Be identified in each recipient's plan of care; and~~

h. ~~[g.] Be designed to contribute directly to the recipient's individualized goals as specified in the recipient's plan of care.~~

2. To provide peer support services, a chemical dependency treatment center shall:

a. Have demonstrated:

(i) The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and

(ii) Experience in serving individuals with behavioral health disorders;

b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230,[or] 908 KAR 2:240, or KRS 309.0831;

c. Use an approved behavioral health practitioner[services provider] to supervise peer support specialists;

d. Have the capacity to coordinate the provision of services among team members; ~~[and]~~

e. Have the capacity to provide on-going continuing education and technical assistance to peer support specialists;

f. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

g. Require peer support services provided to recipients in a group setting to not exceed eight (8) individuals within any group at one (1) time.

(h)1. Intensive outpatient program services shall:

- Be an alternative to or transition from a higher level of care for a substance use disorder or co-occurring disorders[~~inpatient hospitalization or partial hospitalization for a substance use disorder~~];
- Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;
- Meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current edition of The ASAM Criteria for intensive outpatient level of care services;
- Be provided face-to-face;
- Be provided at least three (3) hours per day at least three (3) days per week for adults;
- Be provided at least six (6) hours per week for adolescents; and
- [d.] Include:
 - Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;
 - Crisis intervention; or
 - Psycho-education related to identified goals in the recipient's treatment plan.

2. During psycho-education, the recipient or recipient's family member shall be:

- Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and
- Taught how to cope with the recipient's diagnosis or condition in a successful manner.

3. An intensive outpatient program services treatment plan shall:

- Be individualized; and
- Focus on stabilization and transition to a lesser level of care.

4. To provide intensive outpatient program services, a chemical dependency treatment center shall have:

- Access to a board-certified or board-eligible psychiatrist for consultation;
- Access to a psychiatrist, physician, or advanced practice registered nurse for medication prescribing and monitoring;
- Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) recipients to one (1) staff person;
- The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles; and
- The capacity to employ staff authorized to provide intensive outpatient program services in accordance with this section and to coordinate the provision of services among team members.

5. Intensive outpatient program services shall be provided by:

- An approved behavioral health practitioner, as limited by subsection (1) of this section; or
- An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
 - Individual outpatient therapy shall:
 - Be provided to promote the:
 - Health and wellbeing of the recipient; and
 - Restoration of a recipient to their best possible functional level from substance use disorder or co-occurring disorders[Recipient's recovery from a substance use disorder];
 - Consist of:
 - A face-to-face encounter or via telehealth as appropriate pursuant to 907 KAR 3:170 that is a one (1) on one (1) encounter between the provider and recipient[~~one-on-one encounter between the provider and recipient~~]; and
 - A behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;
 - Be aimed at:
 - Reducing adverse symptoms;
 - Reducing or eliminating the presenting problem of the recipient; and
 - Improving functioning; [and]
 - Not exceed three (3) hours per day alone or in combination

with any other outpatient therapy per recipient unless additional time is medically necessary; and

- Be provided by:
 - An approved behavioral health practitioner, as limited by subsection (1) of this section; or
 - An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
- Group outpatient therapy shall:
 - Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;
 - Be provided to promote the:
 - Health and wellbeing of the individual[recipient]; and
 - Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorders[Recipient's recovery from a substance use disorder];
 - Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;
 - Be provided to a recipient in a group setting:
 - Of nonrelated individuals except for multi-family group therapy; and
 - Not to exceed twelve (12) individuals in size;
 - Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;
 - Center on goals, including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;
 - Not include physical exercise, a recreational activity, an educational activity, or a social activity; and
 - Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.
- The group shall have a:
 - Deliberate focus; and
 - Defined course of treatment.
- The subject of group outpatient therapy shall relate to each recipient participating in the group.
- The provider shall keep individual notes regarding each recipient within[~~of~~] the group and within each recipient's health record.
- Group outpatient therapy shall be provided by:
 - An approved behavioral health practitioner, as limited by subsection (1) of this section; or
 - An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
- Family outpatient therapy shall consist of a face-to-face or appropriate telehealth, pursuant to 907 KAR 3:170, behavioral health therapeutic intervention provided:
 - Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and
 - To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.
- A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals (including multiple members from one (1) family) who participate in the session.
- Family outpatient therapy shall:
 - Be provided to promote the:
 - Health and well-being of the individual[recipient]; or
 - Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorder[Recipient's recovery from a substance use disorder]; and
 - Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient[individual] unless additional time is medically necessary.
- Family outpatient therapy shall be provided by:
 - An approved behavioral health practitioner, as limited by subsection (1) of this section; or
 - An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.
- Collateral outpatient therapy shall:
 - Consist of a face-to-face or appropriate telehealth, provided

pursuant to 907 KAR 3:170, behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient[recipient's representative], school personnel[staff—person], treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's plan of care; and

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age.

2. Written consent by a parent or custodial guardian to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record[Consent given to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed by the recipient or recipient's representative and filed in the recipient's health record].

3. Collateral outpatient therapy shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(m)1. Screening, brief intervention, and referral to treatment for a substance use disorder shall:

a. Be provided face-to-face or via telehealth as appropriate according to 907 KAR 3:170;

b.[4.] Be an evidence-based early-intervention approach for an individual with non-dependent substance use [in-order] to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment; and

c.[2.] Consist of:

(i)[a.] Using a standardized screening tool to assess an individual for risky substance use behavior;

(ii)[b.] Engaging a recipient, who demonstrates risky substance use behavior, in a short conversation and providing feedback and advice[to the recipient]; and

(iii)[c.] Referring a recipient to additional substance use disorder services if the recipient is determined to need additional services to address [the recipient's] substance use.

2. A screening and brief intervention that does not meet criteria for referral to treatment may be subject to coverage by the department.

3. A screening, brief intervention, and referral to treatment for a substance use disorder shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(n)1. Service planning shall:

a. Be provided face-to-face;

b. Involve assisting a recipient in creating an individualized plan for services and developing measurable goals and objectives needed for maximum reduction of the effects of a substance use disorder or co-occurring disorders;

c. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

d. Be performed using a person-centered planning process.

2. A service plan:

a. Shall be directed and signed by the recipient;

b. Shall include practitioners of the recipient's choosing; and

c. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

3. Service planning shall be provided by:

a. An approved behavioral health practitioner, as limited by subsection (1) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsection (1) of this section.

(o)1. Ambulatory withdrawal management services shall:

a. Be provided face-to-face for recipients with a substance use disorder or co-occurring disorders;

b. Be incorporated into a recipient's care as appropriate according to the continuum of care described in the most current version of The ASAM Criteria; and

c. Be in accordance with the most current version of The ASAM Criteria for ambulatory withdrawal management levels in an outpatient setting.

2. A recipient who is receiving ambulatory withdrawal management services shall:

a. Meet the most current edition of diagnostic criteria for substance withdrawal management found in the Diagnostic and Statistical Manual of Mental Disorders; and

b. Meet the current dimensional admissions criteria for withdrawal management level of care as found in The ASAM Criteria.

3. Ambulatory withdrawal management services shall be provided by:

a. A physician;

b. A psychiatrist;

c. A physician assistant;

d. An advanced practice registered nurse; or

e. Any other approved behavioral health practitioner with oversight by a physician, advanced practice registered nurse, or a physician assistant, as limited by subsection (1) of this section.

(p)1. Medication assisted treatment shall be provided by an authorized prescribing provider who:

a.(i) Is a physician licensed to practice medicine under KRS Chapter 311; or

(ii) Is an advanced practice registered nurse (APRN);

b. Meets standards in accordance with 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products; and

d. Has experience and knowledge in addiction medicine.

2. Medication assisted treatment with behavioral health therapies shall:

a. Be co-located within the same practicing site as the practitioner with a waiver pursuant to subparagraph 1.b. of this paragraph or be conducted via telehealth as appropriate according to 907 KAR 3:170; or

b. Be conducted with agreements in place for linkage to appropriate behavioral health treatment providers who specialize in substance use disorders and are knowledgeable in biopsychosocial dimensions of alcohol or other substance use disorder, such as:

(i) An approved behavioral health practitioner, as limited by subsection (1) of this section; or

(ii) A multi-specialty group or behavioral health provider group pursuant to 907 KAR 15:010.

3. A medication assisted treatment program shall:

a. Assess the need for treatment including:

(i) A full patient history to determine the severity of the patient's substance use disorder; and

(ii) Identifying and addressing any underlying or co-occurring diseases or conditions, as necessary;

b. Educate the patient about how the medication works, including:

(i) The associated risks and benefits; and

(ii) Overdose prevention;

c. Evaluate the need for medically managed withdrawal from substances;

d. Refer patients for higher levels of care if necessary; and

e. Obtain informed consent prior to integrating pharmacologic or nonpharmacologic therapies.

4. Medication assisted treatment shall be provided by:

a. A physician;

b. A psychiatrist;

c. An advanced practice registered nurse; or

d. An approved behavioral health practitioner, as limited pursuant to subsection (1) of this section, or approved behavioral health practitioner under supervision, as limited pursuant to subsection (1) of this section, to provide counseling, behavioral therapies, and other support components with experience and knowledge in addiction medicine.

(g)1. An inpatient chemical dependency treatment program shall:

- a. Be a structured inpatient program to provide medical, social, diagnostic, and treatment services to individuals with substance use disorder or co-occurring disorders;
- b. Be provided face-to-face, twenty-four (24) hours per day, seven (7) days per week, 365 days a year with continuous nursing services and under the medical direction of a physician;
- c. Meet the service criteria for medically monitored intensive inpatient services using The ASAM Criteria; and
- d. Include the following services:
 - (i) Screening;
 - (ii) Assessment;
 - (iii) Service planning;
 - (iv) Psychiatric services;
 - (v) Individual therapy;
 - (vi) Family therapy;
 - (vii) Group therapy;
 - (viii) Peer support;
 - (ix) Medication assisted treatment; or
 - (x) Medically monitored inpatient withdrawal management, as established pursuant to subparagraph 2. of this paragraph.

2. Medically monitored inpatient withdrawal management services provided in an inpatient chemical dependency treatment center shall:

- a. Meet the service criteria for medically monitored inpatient withdrawal management services using the current edition of The ASAM Criteria; and
- b. Comply with services pursuant to the requirements of 902 KAR 20:111.

3. For a recipient in an inpatient chemical dependency treatment program, care coordination shall include at minimum:

- a. Facilitating medication assisted treatment for recipients as necessary, per recipient choice;
- b. Referral to appropriate community services;
- c. Facilitation of medical and behavioral health follow ups; and
- d. Linking the recipient to the appropriate level of substance use treatment within the continuum to provide ongoing supports.

4. Inpatient chemical dependency treatment services shall be provided in accordance with 902 KAR 20:160, Sections 4 and 7.

5. Length-of-stay for chemical dependency treatment services shall be person-centered and according to an individually designed plan of care that is consistent with this administrative regulation and the licensure of the facility and practitioner.

6.a. Except as established in clause b. or c. of this subparagraph, the physical structure in which inpatient chemical dependency treatment services is provided shall:

- (i) Have between nine (9) and sixteen (16) beds; and
- (ii) Not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate.

b. If every recipient receiving services in the physical structure is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in clause a. of this subparagraph shall not apply.

c. The limit of sixteen (16) beds established in clause a. of this subparagraph shall not apply if the facility possesses the appropriate inpatient ASAM certification to provide chemical dependency treatment center services, with the exception that:

- (i) Each currently enrolled chemical dependency treatment center shall be granted a one (1) time provisional certification that expires July 1, 2021, unless extended by the department; or
- (ii) A federal waiver, or other change to controlling federal law that allows for the availability of federal financial participation, shall be available for this clause to be operational.

7. Inpatient chemical dependency treatment services shall not include:

- a. Room and board;
- b. Educational services;
- c. Vocational services;
- d. Job training services;
- e. Habilitation services;
- f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;

g. Services to an individual residing in an institution for mental diseases pursuant to 42

C.F.R. 435.1010;

- h. Recreational activities;
- i. Social activities; or
- j. Services required to be covered elsewhere in the Medicaid state plan.

8. To provide inpatient chemical dependency treatment services, the program shall:

- a. Have the capacity to employ staff authorized to provide services in accordance with this section and to coordinate the provision of services among team members;
- b. Be licensed as a chemical dependency treatment services and facility in accordance with 902 KAR 20:160; and
- c. After July 1, 2021, possess an appropriate ASAM Level of Care Certification for medically monitored intensive inpatient services in accordance with The ASAM Criteria.

9.a. Inpatient chemical dependency treatment shall be provided by:

- (i) An approved behavioral health practitioner, except as provided pursuant to subsection (1) of this section; or
- (ii) An approved behavioral health practitioner under supervision, except as provided pursuant to subsection (1) of this section.

b. Support services for inpatient chemical dependency shall be provided by a peer support specialist under the supervision of an approved behavioral health practitioner.

(4)[The extent and type of a screening shall depend upon the nature of the problem of the individual seeking or being referred for services.

(5) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders™.

(6)[The department shall not reimburse for a service billed by or on behalf of an entity or individual who is not a billing provider.

Section 4. Additional Limits and Non-covered Services or Activities. (1)(a) Except as established in paragraph (b) of this subsection, unless a diagnosis is made and documented in the recipient's health record within three (3) visits, the service shall not be covered.

(b) The requirement established in paragraph (a) of this subsection shall not apply to:

- 1. Mobile crisis services;
- 2. Crisis intervention;
- 3. A screening; or
- 4. An assessment.

(2) The department shall not reimburse for both a screening and a screening, brief intervention and referral to treatment (SBIRT)[an SBIRT] provided to a recipient on the same date of service.

(3) The following services or activities shall not be covered under this administrative regulation:

(a) A service provided to:

- 1. A resident of:
 - a. A nursing facility; or
 - b. An intermediate care facility for individuals with an intellectual disability;
- 2. An inmate of a federal, local, or state:
 - a. Jail;
 - b. Detention center; or
 - c. Prison; or
- 3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;

(b) A consultation or educational service provided to a recipient or to others;

(c) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of "face-to-face" established in 907 KAR 15:005, Section 1(21). Contact that is not reimbursable under this paragraph may be permissible if it is conducted in the course of a telehealth service permitted pursuant to 907 KAR 3:170 or this

administrative regulation, as applicable[(14)];

- (d) Travel time;
- (e) A field trip;
- (f) A recreational activity;
- (g) A social activity; or
- (h) A physical exercise activity group.

(4)(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation except as established in Section 3(3)(l)1₂ of this administrative regulation.

(b) A third-party contract shall not be covered under this administrative regulation.

(5) A billing supervisor arrangement between a billing supervisor and an approved[a] behavioral health practitioner under supervision shall not:

(a) Violate the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the approved behavioral health practitioner under supervision; or

(b) Substitute for the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the approved behavioral health practitioner under supervision.

Section 5. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the same service is covered, during the same time period.

(2) For example, if a recipient is receiving a behavioral health service from an independent behavioral health provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a chemical dependency treatment center.

Section 6. Records Maintenance, Documentation, Protection, and Security. (1) A chemical dependency treatment center shall maintain a current health record for each recipient.

(2) A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(3) A health record shall:

(a) Include:

1. An identification and intake record including:

- a. Name;
- b. Social Security number;
- c. Date of intake;
- d. Home (legal) address;
- e. Health insurance or Medicaid participation information;
- f. If applicable, the referral source's name and address;
- g. Primary care physician's name and address;
- h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider's name; and

j. The name of the informant and any other information deemed necessary by the chemical dependency treatment center in order to comply with the requirements of:

(i) This administrative regulation;

(ii) The chemical dependency treatment center's licensure board;

(iii) State law; or

(iv) Federal law;

2. Documentation of the:

- a. Screening;
- b. Assessment₁ if an assessment was performed; and
- c. Disposition₁ if a disposition was performed;

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and

dated; and

6. The individual's stated purpose for seeking services; and

(b) Be:

1. Maintained in an organized central file;

2. Furnished upon request:

a. To the Cabinet for Health and Family Services; or

b. For an enrollee, to the managed care organization in which the recipient is enrolled or has been enrolled in the past;

3. Made available for inspection and copying by:

a. Cabinet for Health and Family Services' personnel; or

b. Personnel of the managed care organization in which the recipient is enrolled if applicable;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient if the recipient received services beyond a screening.

(4) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(5)(a) A chemical dependency treatment center's service notes regarding a recipient shall:

1. Be made within forty-eight (48) hours of each service visit; and

2. Indicate if the service was provided face-to-face or via telehealth for outpatient services; and

3. Describe the:

a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

b. Behavioral health practitioner's intervention;

c. Changes in the plan of care if changes are made; and

d. Need for continued treatment if deemed necessary.

(b)1. Any edit to notes shall:

a. Clearly display the changes; and

b. Be initialed and dated by the person who edited the notes.

2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by an approved[a] behavioral health practitioner [working] under supervision shall be co-signed and dated by the supervising professional within thirty (30) days.

2. If services are provided by an approved[a] behavioral health practitioner [working] under supervision, there shall be a monthly supervisory note recorded by the supervising professional that[which] reflects consultations with the approved behavioral health practitioner working under supervision concerning the:

a. Case; and

b. Supervising professional's evaluation of the services being provided to the recipient.

(6) Immediately following a screening of a recipient, the practitioner shall perform a disposition related to:

(a) A provisional diagnosis;

(b) A referral for further consultation and disposition, if applicable; or

(c)1. If applicable, termination of services and referral to an outside source for further services; or

2. If applicable, termination of services without a referral to further services.

(7) Any change to a recipient's plan of care shall be documented, signed, and dated by the rendering practitioner and by the recipient or recipient's representative.

(8)(a) Notes regarding services to a recipient shall:

1. Be organized in chronological order;

2. Be dated;

3. Be titled to indicate the service rendered;

4. State a starting and ending time for the service; and

5. Be recorded and signed by the rendering practitioner and include the professional title (for example, licensed clinical social worker) of the provider.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other non-reimbursable contacts shall:

1. Be recorded in the notes; and
2. Not be reimbursable.

(9)(a) A termination summary shall:

1. Be required, upon termination of services, for each recipient who received at least three (3) service visits; and
2. Contain a summary of the significant findings and events during the course of treatment including the:
 - a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's plan of care;
 - b. Final diagnosis of clinical impression; and
 - c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who has been terminated from receiving services shall be fully completed within ten (10) days following termination.

(10) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(11)(a) Except as established in paragraph (b) of this subsection, if a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring chemical dependency treatment center shall, within ten (10) business days of awareness of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

- 1.a. The Health Insurance Portability and Accountability Act;
- b. 42 U.S.C. 1320d-2 to 1320d-8; and
- c. 45 C.F.R. Parts 160 and 164; or
- 2.a. 42 U.S.C. 290ee-3; and
- b. 42 C.F.R. Part 2.

(b) If a recipient is transferred or referred to a residential crisis stabilization unit, a psychiatric hospital, a psychiatric distinct part unit in an acute care hospital, a Level I psychiatric residential treatment facility, a Level II psychiatric residential treatment facility, or an acute care hospital for care or treatment, the transferring chemical dependency treatment center shall, within forty-eight (48) hours of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

- 1.a. The Health Insurance Portability and Accountability Act;
- b. 42 U.S.C. 1320d-2 to 1320d-8; and
- c. 45 C.F.R. Parts 160 and 164; or
- 2.a. 42 U.S.C. 290ee-3; and
- b. 42 C.F.R. Part 2.

(12)(a) If a chemical dependency treatment center's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of an owner or deaths of owners, the health records of the chemical dependency treatment center shall:

1. Remain the property of the chemical dependency treatment center; and
2. Be subject to the retention requirements established in subsection (13) of this section.

(b) A chemical dependency treatment center shall have a written plan addressing how to maintain health records in the event of death of an owner or deaths of owners.

(13)(a) Except as established in paragraph (b) or (c) of this subsection, a chemical dependency treatment center shall maintain a health record regarding a recipient for at least six (6) years from the last date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or
2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the

secretary shall be the required period.

(14)(a) A chemical dependency treatment center shall comply with 45 C.F.R. Part 164.

(b) All information contained in a health record shall:

1. Be treated as confidential;
2. Not be disclosed to an unauthorized individual; and
3. Be disclosed to an authorized representative of:

- a. The department;
- b. Federal government; or
- c. For an enrollee, the managed care organization in which the enrollee is enrolled.

(c)1. Upon request, a chemical dependency treatment center shall provide to an authorized representative of the department, federal government, or managed care organization if applicable, information requested to substantiate:

- a. Staff notes detailing a service that was rendered;
- b. The professional who rendered a service; and
- c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department or the managed care organization, if applicable.

2. Failure to provide information referenced in subparagraph 1_ of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 7. Medicaid Program Participation Compliance. (1) A chemical dependency treatment center shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672; and
- (c) All applicable state and federal laws.

(2)(a) If a chemical dependency treatment center receives any duplicate payment or overpayment from the department or a managed care organization, regardless of reason, the chemical dependency treatment center shall return the payment to the department or managed care organization in accordance with 907 KAR 1:671.

(b) Failure to return a payment to the department or managed care organization in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

(3)(a) When the department makes payment for a covered service and the chemical dependency treatment center accepts the payment:

1. The payment shall be considered payment in full;
2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the chemical dependency treatment center.

(b)1. A chemical dependency treatment center may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

- a. Recipient requests the service; and
- b. Chemical dependency treatment center makes the recipient aware in writing in advance of providing the service that the:
 - (i) Recipient is liable for the payment; and
 - (ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1_ of this paragraph, the:

- a. Chemical dependency treatment center shall not bill the department for the service; and
- b. Department shall not:
 - (i) Be liable for any part of the payment associated with the service; and
 - (ii) Make any payment to the chemical dependency treatment center regarding the service.

(4)(a) A chemical dependency treatment center shall attest by the chemical dependency treatment center's staff's or representative's signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;
2. Cabinet for Health and Family Services, Office of Inspector General, or its designee;
3. Kentucky Office of Attorney General or its designee;
4. Kentucky Office of the Auditor for Public Accounts or its designee;
5. United States General Accounting Office or its designee; or
6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c)1. If a chemical dependency treatment center receives a request from the:

a. Department to provide a claim, related information, related documentation, or record for auditing purposes, the chemical dependency treatment center shall provide the requested information to the department within the timeframe requested by the department; or

b. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the chemical dependency treatment center shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

2.a. The timeframe requested by the department or managed care organization for a chemical dependency treatment center to provide requested information shall be:

(i) A reasonable amount of time given the nature of the request and the circumstances surrounding the request; and

(ii) A minimum of one (1) business day.

b. A chemical dependency treatment center may request a longer timeframe to provide information to the department or a managed care organization if the chemical dependency treatment center justifies the need for a longer timeframe.

(d)1. All services provided shall be subject to review for recipient or provider fraud or abuse, and compliance with this administrative regulation and state and federal law.

2. Willful abuse by a chemical dependency treatment center shall result in the suspension or termination of the chemical dependency treatment center from Medicaid Program participation in accordance with 907 KAR 1:671.

Section 8. Third Party Liability. A chemical dependency treatment center shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A chemical dependency treatment center that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the chemical dependency treatment center's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the chemical dependency treatment center's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 10. Auditing Authority. The department or managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(1) Claim;

(2) Health record; or

(3) Documentation associated with any claim or health record.

Section 11. Federal Approval and Federal Financial Participation. (1) The department's reimbursement of services pursuant to this administrative regulation shall be contingent upon:

(a) Receipt of federal financial participation for the coverage; and

(b) Centers for Medicare and Medicaid Services' approval for the coverage.

(2) The reimbursement of services provided by a licensed clinical alcohol and drug counselor or licensed clinical alcohol and drug counselor associate shall be contingent and effective upon approval by the Centers for Medicare and Medicaid Services.

Section 12. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LISA LEE, Commissioner

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 11, 2020

FILED WITH LRC: May 13, 2020 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 27, 2020 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 July 20, 2020, 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 July 31, 2020. 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: Donna Little, Deputy Executive Director, 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 and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program outpatient and inpatient chemical dependency treatment center (CDTC) services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with federal mandates. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment" for all recipients.

(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 complying with federal mandates and enhancing and ensuring Medicaid recipients' access to behavioral health services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This

administrative regulation will assist in the effective administration of the authorizing statutes by complying with federal mandates and enhancing and ensuring Medicaid recipients' access to behavioral health 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: The amendments to this administrative regulation combine a previously separate description of who may perform a service and a description of the service itself. This series of amendments also includes a reference to the defined terms "approved behavioral health practitioner" and "approved behavioral health practitioner under supervision" from 907 KAR 15:005 instead of a listing of each provider in each service. This provides for more transparency and compactness in the administrative regulation. The administrative regulation has also clarified the use of telehealth in several places. Additional requirements relating to mobile crisis services include requiring access to a board-certified or board eligible psychiatrist at all times, and allowing for the use of peer support specialists. Day treatment services include additional requirements relating to staff qualifications. Peer support specialist services are amended to further allow and enhance the use of emergency department bridge clinics. In addition, peer support specialist services are now required to only be 30 hours per week of direct recipient contact and group peer support services are not allowed to exceed 8 individuals within any group at one time. Intensive outpatient program services are required to comply with the most recent service criteria of the ASAM Criteria, and additional clarification is given about how the services are to be provided to adults and adolescents. The amendments also include new services and requirements relating to "service planning", "ambulatory withdrawal management", "medication assisted treatment", and "inpatient chemical dependency treatment".

(b) The necessity of the amendment to this administrative regulation: These amendments are necessary to comply with existing OIG administrative regulations, implement an SUD 1115 waiver, require compliance with the ASAM Criteria, and provide additional formatting improvements.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments conform to the content of the authorizing statutes by implementing an SUD 1115 waiver.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effective administration of the statutes by providing additional clarity and requirements relating to chemical dependency treatment centers.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Entities licensed as chemical dependency treatment centers (CDTCs), behavioral health professionals authorized to provide services in CDTCs, and Medicaid recipients who receive services in CDTCs will be affected by the administrative regulation. Currently there are 3 CDTC licenses issued by the state.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Entities that qualify as chemical dependency treatment centers and who wish to provide services to Medicaid recipients will need to enroll with the Medicaid Program as prescribed in the Medicaid provider enrollment regulation (complete an application and submit it to DMS) and sign agreements with managed care organizations if the individual wishes to provide services to Medicaid recipients who are enrolled with a managed care organization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The entities referenced in paragraph (a) could experience administrative costs associated with enrolling with the

Medicaid Program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The entities referenced in paragraph (a) will benefit by receiving Medicaid Program reimbursement for providing behavioral health services to Medicaid recipients. Behavioral health professionals authorized to provide services in a chemical dependency treatment center will benefit by having more employment opportunities in Kentucky. Medicaid recipients in need of behavioral health services will benefit from an expanded base of providers from which to receive these services.

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

(a) Initially: DMS anticipates potential savings of more than \$4.6 million due to the availability of a level of care that is less expensive than hospitalization via the introduction of inpatient chemical dependency treatment centers.

(b) On a continuing basis: DMS anticipates potential savings of more than \$4.6 million due to the availability of a level of care that is less expensive than hospitalization via the introduction of inpatient chemical dependency treatment centers.

(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 the Social Security Act, Title XIX and matching funds of 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 is necessary to implement this administrative regulation.

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

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), and 42 U.S.C. 1396a(a)(23).

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

3. Minimum or uniform standards contained in the federal mandate. Substance use disorder services are federally mandated for Medicaid programs. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23) is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency that oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its substance use disorder provider base to comport with the freedom of choice of provider requirement. 42

U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal 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 for Medicaid Services will be affected by the amendment to 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.030(2), 194A.050(1), 205.520(3).

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

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

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

(c) How much will it cost to administer this program for the first year? DMS anticipates potential savings of more than \$4.6 million due to the availability of a level of care that is less expensive than hospitalization via the introduction of inpatient chemical dependency treatment centers.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates potential savings of more than \$4.6 million due to the availability of a level of care that is less expensive than hospitalization via the introduction of inpatient chemical dependency treatment centers.

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 8:010. Standards for rape crisis centers.

RELATES TO: KRS Chapter 13B, 17.165, 147A.050, 194A.060, 209.030, 210.370, 211.600-211.608, 214.185, 214.625, 421.500-421.575, 620.030, 34 U.S.C. 12291-12512

STATUTORY AUTHORITY: KRS 194A.050(1), 211.602(2), 211.608[-, EO 2004-726]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and

Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law 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. [EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Mental Health and Mental Retardation within the cabinet.] KRS 211.602(2) requires that a rape crisis center operate in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services to be eligible to receive state funds and other allocations by the cabinet. KRS 211.608 requires the cabinet to promulgate an administrative regulation that specifies procedures for assuring the confidentiality of rape crisis center clients. [KRS 211.600(4) requires the Cabinet for Health Services to designate regional rape crisis centers from each area development district.] This administrative regulation establishes the requirements for rape crisis centers designated by the cabinet.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Health and Family Services.

(2) "Governing board" or "board" means a board that meets the requirements of KRS 211.604.

(3) "Mental health discipline" means the practice of:

- (a) Psychology;
- (b) Social work;
- (c) Psychiatric nursing;
- (d) Marriage and family therapy;
- (e) Professional counseling; and
- (f) Art therapy.

(4) "Rape crisis center", or "center", means an organization designated by the cabinet in accordance with KRS 211.600(1) [211.604(4)].

(5) "Region" means an area development district established [created] by KRS 147A.050.

(6) ["Regional MHMR board" means a regional mental health and mental retardation board established in accordance with KRS 210.370.

~~(7)~~ "Secretary" means the secretary of the Cabinet for Health and Family Services.

~~(7)~~ [(8)] "Victim" means:

(a) A person of any age who has experienced:

- 1. Sexual violence;
- 2. Unwanted sexual contact; or
- 3. Sexual harassment [been raped or sexually abused];

(b) A family member of a person who has experienced:

- 1. Sexual violence;
- 2. Unwanted sexual contact; or
- 3. Sexual harassment [been raped or sexually abused]; or

(c) A friend of, or other person associated with, a person who has experienced:

- 1. Sexual violence;
- 2. Unwanted sexual contact; or
- 3. Sexual harassment [been raped or sexually abused, and who has been affected by the rape or abuse].

Section 2. Designation and Rescission [Rescission] of the Designation of a Rape Crisis Center.

(1) An organization ~~[which has been]~~ funded by the cabinet to provide rape crisis services ~~[for the state fiscal year ending June 30, 2000]~~ shall be the designated rape crisis center for the region in which it is located~~[-]~~ unless the secretary rescinds the designation in accordance with subsection (2) of this section.

(2) A center's designation shall be rescinded ~~[is subject to rescission]~~ if the cabinet determines that:

(a) It failed to submit a plan and budget which substantiates that it has the capacity to provide the services specified in KRS 211.600(3), in accordance with Section 15(1) [16(1)] of this administrative regulation;

(b) Its plan and budget is disapproved; or

(c) It has failed to operate in accordance with a requirement of this administrative regulation.

(3) The cabinet shall notify a center in writing if the secretary rescinds the designation of the center as a regional rape crisis

center. The notification shall:

- (a) Specify the [effective] date the designation was rescinded [of the rescission];
- (b) Identify the paragraph of subsection (2) of this section upon which this decision was [the rescission is] based; and
- (4) Inform the center that it may request an administrative hearing, in accordance with Section 16 [47] of this administrative regulation, to dispute the cabinet's decision.

Section 3. Requirements for a Board. (1) A board shall adopt written bylaws[,] that specify the:

- (a) Purpose of the center;
- (b) Qualifications for board members;
- (c) Types of members including:
 - 1. Voting; and
 - 2. Ex-officio;
- (d) Procedure for selecting a member;
- (e) Terms of board membership;
- (f) Method of filling a vacancy;
- (g) The name, responsibility, and composition of each committee;
- (h) Officers and the duties of officers;
- (i) Procedure for election of officers;
- (j) An annual meeting date for the election of officers;
- (k) Procedure for removing a member; and
- (l) Quorum requirements for a board meeting.
- (2) The board shall:
 - (a) Perform the functions specified in KRS 211.604(2);
 - (b) Record written minutes of each meeting of the board. The minutes shall specify the:
 - 1. Date and place of the meeting;
 - 2. The name of each member present;
 - 3. Each matter discussed;
 - 4. Each action taken; and
 - 5. Name of the reporter;
 - (c) Establish the following standing committees:
 - 1. Executive, which shall assist with board functioning;
 - 2. Nominating, which shall assist with board member:
 - a. Recruitment;
 - b. Training; and
 - c. Retention;
 - 3. Finance, which shall provide financial oversight of programming; and
 - 4. Personnel, which shall assist with:
 - a. Hiring;
 - b. Training; and
 - c. Supervision of the Executive Director [; and
 - 5. Program planning and evaluation];
 - (d) Retain minutes of each board meeting for five (5) years; and
- (e) Establish written policies and procedures for the center.

(3) The written policies and procedures shall include:

- (a) The provision of all rape crisis services established in this administrative regulation at no cost to the victim;

(b) Procedures that [which] preserve the confidentiality of individual client records in accordance with KRS 211.608 and other applicable law; and

(c) ~~(b)~~ A requirement that a person who provides a service shall assert and maintain the privileges conferred upon that person by federal and state law applicable to:

- 1. The confidentiality of client records; and
- 2. The disclosure of personally identifying information about a victim.

(4) A board shall not contract with a member of the board to perform personal or professional services.

Section 4. Personnel Administration. (1) A center shall establish a personnel file for each employee that [which] shall include:

- (a) An application for employment;
- (b) Documentation that the employee meets the qualifications for the position the employee holds, as specified in Sections 5 [(2), (4),] and 6 of this administrative regulation; ~~and~~

(c) A position description that [which] specifies the:

- 1. Title of the position;
- 2. Duties of the position; and
- 3. Training and experience required to qualify for the position;
- ~~(d) Documentation of completed training;~~
- ~~(e) Documentation of completed records checks, as required by subsection (6) of this section; and~~

~~(f) Written documentation of the employee performance evaluation once completed.~~

~~(2) A center shall establish a personnel file for each contract professional that shall include:~~

- ~~(a) A signed contract that specifies the:~~
 - ~~1. Duties of the contractor; and~~
 - ~~2. Requirement to meet applicable regulatory and contractual requirements of the rape crisis center;~~

~~(b) Documentation that the contractor meets the qualifications for the service to be provided, as specified in Sections 5 and 6 of this administrative regulation;~~

~~(c) Documentation of completed training;~~

~~(d) Documentation of completed records checks, as required by subsection (6) of this section; and~~

~~(e) Written documentation of the subcontractor performance evaluation as part of the contract renewal.~~

~~(3) A center shall establish a personnel file for each volunteer that shall include:~~

~~(a) An application;~~

~~(b) Documentation that the volunteer meets the qualifications for the position the volunteer holds, as specified in Section 6 of this administrative regulation;~~

~~(c) A position description that specifies the:~~

- ~~1. Title of the position;~~
- ~~2. Duties of the position; and~~
- ~~3. Training and experience required to qualify for the position;~~
- ~~(d) Documentation of completed training;~~
- ~~(e) Documentation of completed records checks, as required by subsection (6) of this section; and~~

~~(f) Written documentation of the volunteer performance evaluation once completed.~~

~~(4) [(2)] The board shall establish personnel policies that [which] govern:~~

- ~~(a) Attendance and leave;~~
- ~~(b) Compensation;~~
- ~~(c) Fringe benefits;~~
- ~~(d) Circumstances that [which] disqualify a person from serving as:~~

- ~~1. An employee;~~
- ~~2. A contractor; or~~
- ~~3. A volunteer;~~
- ~~(e) Employee grievance procedures;~~
- ~~(f) Employee performance evaluations;~~
- ~~(g) Equal opportunity employment;~~
- ~~(h) A requirement for submission of documentation by an applicant that demonstrates the qualifications of the applicant;~~

~~(i) A requirement that an applicant submit documentation of a sanction previously imposed, or pending, against the applicant's license or certification; and~~

~~(j) A procedure for verifying an applicant's qualifications.~~

~~(5) Circumstances that disqualify an employee, a contract professional, or a volunteer from serving clients include the person having [(3) The policy required by subsection (2)(d) of this section shall disqualify a person from performing a client service, if the person has] been:~~

- ~~(a) Convicted of a sex crime, as defined in KRS 17.165; or~~
- ~~(b) Convicted as a violent offender, as defined in KRS 17.165.~~

~~(6) [(4)] A center shall conduct a criminal records check and child abuse or neglect check pursuant to 922 KAR 1:470 on:~~

- ~~(a) An applicant for a paid or volunteer position that includes a duty to provide services to a victim; and~~
- ~~(b) A prospective contractor, if the contract is to provide services to a victim.~~

~~(7) [(5)] A center shall maintain a list of persons with whom it contracts to provide any client [therapy] service.~~

~~(8) [(6)] A contract for performance of a service or~~

administrative function shall provide that the cabinet shall have access to the contractor's facilities, staff, and records, as necessary for the cabinet to evaluate the contractor's performance.

(9) [(7)] If a center contracts for performance of client [therapy] services, the contract shall specify requirements for:

- (a) Individual client records;
- (b) Documentation of services performed;
- (c) Confidentiality of client related information;
- (d) Specialized training required of the service provider [therapist] concerning the treatment of victims; and
- (e) ~~[(The fees that may be charged to a client; and~~
- (f) The contractor's disclosure of:
 1. Punitive action taken against the contractor by a licensing or certification board, prior to or during the period the contract;
 2. A pending complaint that may result in punitive action against the contractor by a licensing or certification board;
 3. A conviction of the contractor on a criminal charge;
 4. A criminal charge currently pending against the contractor;
 5. The result of an adjudicated civil action against a contractor, related to the contractor's professional practice; and
 6. A pending civil action against the contractor, related to the contractor's professional practice that may result in punitive action by a licensing or certification board.

Section 5. Required Personnel [personnel]. (1) The governing board shall employ an Executive Director, ~~[administrative director]~~ who shall:

- (a) Be responsible for financial management of the center;
- (b) Supervise the performance of staff and volunteers;
- (c) Coordinate the design and delivery of ~~[rape and]~~ sexual violence [abuse] intervention services;
- (d) Fulfill other duties assigned by the governing board;
- (e) Report to the board on all center activities; and
- (f) Ensure that a provider of a direct client service meets requirements of the professional board with regulating authority for the provider's practice.

(2) The qualifications of an Executive Director ~~[administrative director]~~ shall be:

(a) A master's degree from an accredited college or university; or

(b) A bachelor's degree from an accredited college or university, and three (3) years of administrative experience.

(3) An Executive Director ~~[administrative director]~~ shall, in order to coordinate direct services to clients:

- (a) Possess a certificate or license to practice, under the law of the Commonwealth of Kentucky, in a mental health discipline; or
- (b) Employ and supervise a person who possesses a certificate or license to practice, under the law of the Commonwealth of Kentucky in a mental health discipline.

(4) The board shall employ or contract for personnel to provide the services required by KRS 211.600(3).

Section 6. Qualifications of Service Providers. (1) A person who performs a crisis telephone service shall receive forty (40) hours of training on issues relevant to crisis intervention, including:

- (a) An overview of issues related to sexual violence; and
- (b) The services provided by rape crisis centers.

(2) An employee or contracted professional described in subsections (5) through (10) of this section shall complete forty (40) hours of training on sexual violence issues within three (3) months of the first day of employment.

(3) All forty (40) hours of training shall be completed prior to the performance of any client service by an employee or contracted professional who does not have at least a bachelor's degree or by a volunteer.

(4) A minimum of eight (8) hours of training shall be completed prior to the performance of any client service by an employee.

(5) An employee or contracted professional who performs a crisis counseling service shall have at least a bachelor's degree from an accredited college or university.

(6) An employee or contracted professional [A person who performs a crisis counseling service shall:

- (a) Be supervised by a person described in Section 5(3) of this administrative regulation;

~~(b) Have a bachelor's degree from an accredited college or university; and~~

~~(c) Participate in forty (40) hours of training on rape and sexual abuse issues, within (3) three months of employment.~~

~~(3) Eight (8) hours of the training required by subsection (2)(c) of this section shall occur prior to the performance of a crisis counseling service.~~

~~(4) A person] who performs a therapy service shall:~~

~~(a) Have a certificate or license to practice a mental health discipline under the laws of the Commonwealth of Kentucky;~~

~~(b) Have a master's degree in a mental health discipline from an accredited college or university; and~~

~~(c) Have one (1) year of counseling or clinical experience; and~~

~~(d) Participate in forty (40) hours of training on rape and sexual abuse issues, within three (3) months of employment.~~

~~(5) Eight (8) hours of the training required by subsection (4)(d) of this section shall occur prior to the performance of a therapy service].~~

~~(7) A person who provides [(6) A person who supervises] medical or legal advocacy services shall meet[:~~

~~(a) Have a bachelor's degree from an accredited college or university;~~

~~(b) Participate in forty (40) hours of training on issues related to rape and sexual abuse, within three (3) months of employment; and~~

~~(c) Meet] the definition of a victim's advocate established in KRS 421.570.~~

~~[(7) Eight (8) hours of the training required by subsection (6)(b) of this section shall occur prior to the performance of a medical or legal advocacy service.]~~

~~(8) An employee or contracted professional who coordinates volunteer services shall:~~

~~(a) Have a bachelor's degree from an accredited college or university; or~~

~~(b) [A person who supervises a volunteer shall have:~~

~~(a) A high school diploma or equivalent[: and five]~~

~~(b) Five] (5) years of volunteer or work experience.]~~

~~(c) Participate in forty (40) hours of training on issues related to rape and sexual abuse prior to supervising a volunteer.]~~

~~(9) An employee or contracted professional [A person who performs a volunteer service shall:~~

~~(a) Be twenty (20) years of age;~~

~~(b) Participate in forty (40) hours of training related to rape and sexual abuse prior to performing a volunteer service; and~~

~~(c) Be qualified in accordance with the requirements of this section which apply to the services that the volunteer is assigned to provide.~~

~~(10) A staff member] who performs a public education service shall have a:~~

~~(a) Bachelor's [Have a bachelor's] degree from an accredited college or university; or~~

~~(b) High school diploma and at least four (4) years of applicable experience [and~~

~~(b) Participate in forty (40) hours of training on issues related to rape and sexual abuse, within three (3) months of employment.~~

~~(11) Eight (8) hours of the training required by subsection (10)(b) of this section shall occur prior to the performance of a public education service].~~

~~(10) A person who volunteers to perform a rape crisis center service shall at a minimum:~~

~~(a) Be eighteen (18) years of age;~~

~~(b) Have a high school diploma or equivalent;~~

~~(c) Complete forty (40) hours of training on issues related to sexual violence prior to service provision to clients; and~~

~~(d) Meet the definition of a victim's advocate established in KRS 421.570.~~

~~(11) [(12)] The qualifications specified in subsections (5) [(4)] through (10) [(11)] of this section shall not apply to an employee hired or a contractor engaged prior to the effective date of this administrative regulation if the employee or contractor meets the requirements that were in effect at the time the employee was hired or the contractor was engaged.]~~

~~(13) A person who provides client services shall participate in~~

at least eight (8) hours of continuing education annually.]

Section 7. Requirements for Crisis Services. (1) A rape crisis center shall assure that the following crisis services are available to a victim twenty-four (24) hours a day, seven (7) days a week:

(a) A toll-free crisis telephone service to include:

1. A text telephone capacity; ~~or~~
2. Equivalent assistive technology for the deaf and hard of hearing; ~~or~~

3. Language accessibility assistance.

(b) Crisis intervention [counseling] services.

(2) A victim who calls the crisis telephone service shall not be required to provide self-identifying information [identify himself or herself].

(3) A center shall establish policies and procedures for the operation of the crisis telephone service, as required by subsection (1)(a) of this section that specify conditions under which an employee or volunteer who answers a crisis call shall contact a supervisor.

(4) The policies and procedures shall require that a supervisor be contacted if:

- (a) A caller seems to present a danger to self or others;
- (b) A caller is in danger; or
- (c) The intervention of law enforcement may be appropriate.

(5) A person who responds to a crisis telephone call outside the center's regular business hours shall inform supervisory staff by the close of business on the following business day.

(6) A call that alleges or provides evidence of abuse, neglect, or exploitation shall be reported in accordance with:

- (a) KRS 620.030, if applicable; or
- (b) KRS 209.030, if applicable.

(7) The center shall document each crisis telephone call in a log. Documentation shall include:

- (a) The time, date, and purpose of the call;
- (b) The name of the caller if given voluntarily;
- (c) A referral made as a result of the call, if any; and
- (d) Other action recommended by the employee or volunteer who answered the call, if any.

(8) Face-to-face crisis counseling services shall be:

(a) Provided by a staff member with a minimum of a bachelor's degree; and

(b) Available [available] during the regular business hours of the center and, at other hours, by appointment.]

~~(9) A center shall not charge a recipient of crisis counseling services for three (3) or fewer visits.~~

~~(10) If a client needs or requests a service in addition to the counseling visits provided at no cost, in accordance with subsection (9) of this section, the center shall:~~

- ~~(a) Provide the service; or~~
- ~~(b) Refer the client to another practitioner who, or agency which, provides the service.]~~

Section 8. Requirements for Mental Health and Related Support Services. (1) Mental health and related support services shall include:

- (a) Therapy;
- (b) Information; and
- (c) Referral services.

(2) Therapy may include:

- (a) Individual psychotherapy;
- (b) Family psychotherapy; and
- (c) Group psychotherapy; ~~and~~
- (d) Medication management].

(3) Therapy shall be available during regular business hours of the center.

(4) A center shall maintain a record of current information about financial, medical, mental health, social services, and other resources for the referral of a victim.

Section 9. Requirements for Advocacy Services. (1)

Advocacy services shall include both legal and medical advocacy services.

(2) Advocacy services shall be available twenty-four (24) hours

a day, seven (7) days a week[~~, at no cost to a victim~~].

(3) Advocacy services provided outside regular business hours shall be documented by the close of business on the following business day.

(4) The center shall establish a protocol for advocacy services, listing the conditions under which a person who provides advocacy services shall contact a supervisor.

(5) Legal advocacy services shall include:

(a) Accompanying a victim to a court proceeding or a meeting with law enforcement or a criminal justice agency; and

(b) Educating a victim regarding:

1. How the legal system operates; and
2. The Victims Bill of Rights specified in KRS 421.500 to 421.575.

(6) Legal advocacy services shall be limited to support and education, and shall not include offering legal advice or otherwise engaging in the practice of law, unless the service is provided by a licensed attorney;

(7) Medical advocacy services shall include:

(a) Accompanying a victim to a sexual assault forensic [rape] examination or other medical care necessitated by the [rape and] sexual violence [abuse]; and

(b) Educating a victim regarding:

1. Available services; and
2. Victims' rights [how the health care system operates].

Section 10. Requirements for Consultation Services. (1) The center shall provide consultation services that may include information[Consultation services shall include discussion]:

(a) Specific to a victim of sexual violence; or [Related to a victim; and]

(b) About the design of a program to assist a victim of sexual violence.

(2) Consultation on behalf of a victim shall be:

(a) Available twenty-four (24) hours a day, seven (7) days a week[~~at no cost~~]; and

(b) Provided under conditions that protect the victim's confidentiality.

(3) The center shall obtain written permission for release of information from the victim prior to disclosure of personally identifying information.

Section 11. Requirements for Public Education Services. (1) Public education services may [shall] include:

(a) Primary prevention [Prevention];

(b) Risk reduction;

(c) General information;

(d) Training programs regarding [rape,] sexual violence [abuse,] or related issues for schools, community groups, or professionals; and

(e) Development or distribution of written materials that [which] provide information on:

1. The spectrum of sexual violence[Rape and sexual abuse]; and

2. How to contact the center for services.

(2) Public education materials shall be prepared for an audience that is diverse in religion, race, disability, culture, and sexual orientation.

(3) A center shall evaluate its public education programs using information from education program participants.

Section 12. ~~[Volunteer Program. A rape crisis center shall maintain a roster of volunteers who may assist with the provision of:~~

~~(1) A direct service to a victim of rape or sexual abuse; and~~

~~(2) Administrative services for the center.~~

~~Section 13.] Client Files.~~ (1) A center shall document each service provided, to include:

(a) The date the service is performed;

(b) The recipient of the service;

(c) The type of service; and

(d) The name and title of the service provider.

(2) A rape crisis center shall establish a file for each victim who is provided a therapy service. The file shall include:

- (a) A current service plan that identifies the services needed by the victim; and
- (b) A statement of the goals for intervention.
- (3) A client file shall be confidential, except as otherwise provided by law.

Section 13[14]. Client Satisfaction and Grievances. (1) A rape crisis center shall establish a written grievance procedure that shall:

- (a) Be given to each client who comes to the center for a service;
- (b) Contain a description of the services provided by the center; and
- (c) Specify the procedure for filing a client grievance.
- (2) A center shall evaluate, annually, the level of client satisfaction with its services, using information provided by clients.

Section 14[45]. Monitoring. (1) The cabinet may monitor and review programs related to:

- (a) The quality of a center's services;
- (b) Compliance with the requirements of this administrative regulation; and
- (c) Implementation of a center's approved plan and budget.
- (2) Monitoring may include:
 - (a) Review of client records;
 - (b) Review of a report submitted to the cabinet;
 - (c) On-site visit for technical assistance or consultation;
 - (d) Interviews with the following persons:
 1. A center employee;
 2. A contract service provider;
 3. A volunteer; or
 4. A victim if they agree to participate in an interview; and
 - (e) Investigation of a problem or complaint.
- (3) A rape crisis center, and a subcontractor of a rape crisis center, shall grant the cabinet reasonable access to its facilities, staff, and records.
- (4) The cabinet, in its monitoring and review in accordance with subsection (1) of this section, shall preserve the confidentiality of a client record in accordance with KRS [214.185, and] 194A.060 and 214.185[~~, 902 KAR 20:091, Section 3(4)(c)~~].

Section 15[46]. Funding. (1) An entity designated as a regional rape crisis center shall submit a budget and plan for services to the cabinet or its designee[~~"the Funding Application for Rape Crisis Centers and Rape Victim Services Programs"~~] no later than ninety (90) days prior to the beginning of the period for which funds are requested.

(2) A center shall be eligible to receive state funds and other allocations from the cabinet upon the secretary's approval of a funding application submitted in accordance with subsection (1) of this section.

Section 16[47]. Administrative Hearing Procedure. (1) A request for an administrative hearing shall be received by the cabinet no later than thirty (30) days after the date of the notice required by Section 2(3) of this administrative regulation. The request shall:

- (a) Identify the disputed decision; and
- (b) State the basis on which the secretary's decision is believed to be unwarranted or erroneous.
- (2) An administrative hearing shall be conducted by a hearing officer knowledgeable of cabinet policy.
- (3) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (4) A request for a hearing shall be considered abandoned if the appellant does not appear at the hearing on the scheduled date and the hearing has not been previously rescheduled.
- (5) A center may withdraw a request for an administrative hearing by:
 - (a) Notifying the hearing officer, in writing, that the center wishes to withdraw the request; or

(b) Stating on the record, at the hearing, that the center withdraws the request.[]

~~Section 18. Material Incorporated by Reference. (1) "Funding Application for Rape Crisis Centers and Rape Victim Services Programs (July 1993)" form is incorporated by reference.~~

~~(2) This material may be obtained, inspected, or copied, subject to applicable copyright law, at the Division of Mental Health, Department for Mental Health and Mental Retardation Services, Cabinet for Health and Family Services, Leestown Square, 4th Floor, Fair Oaks Lane, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday to Friday.]~~

ERIC C. FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: April 29, 2020

FILED WITH LRC: April 30, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 27, 2020, 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 July 20, 2020, 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 July 31, 2020. 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: Donna Little, Deputy Executive Director, 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 Person: Laura Begin and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for rape crisis centers designated by the cabinet.

(b) The necessity of this administrative regulation: This administrative regulation was promulgated to execute the statutory requirements for the cabinet to establish and designate rape crisis centers from each area development district. KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 211.602(2) requires that a rape crisis center operate in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services to be eligible to receive state funds and other allocations by the cabinet. KRS 211.608 requires the cabinet to promulgate an administrative regulation that specifies procedures for assuring the confidentiality of rape crisis center clients.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes by establishing the processes for designating and operating a rape crisis center.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the administration of rape crisis services in a manner that is consistent with federal and state requirements, including receiving available funding and

establishing requirements in the interests of the clients to be served, rape crisis services providers, and stakeholders.

(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 is necessary to provide clarification on the qualifications for volunteers, employees, and contract professionals providing rape crisis center services. This administrative regulation was last amended effective 2001; therefore, there were many updates needed for compliance with current terminology related to sexual violence, mental health, and available services and technical corrections needed in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to provide clarification for the credentials and qualifications of service providers of rape crisis services.

(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 designation and requirements for rape crisis centers and providing clarification of client eligibility and qualifications of service providers and their personnel.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes through its refinement of qualifications for rape crisis center personnel.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are thirteen rape crisis centers in Kentucky, each serving five to seventeen counties. There was a total of 8,578 victims (primary and secondary) served by rape crisis centers in SFY19. In addition, 98,585 individuals were served through professional training and primary preventions by rape crisis centers that raise bystander intervention awareness when sexually inappropriate behavior is witnessed. Each rape crisis center has an educator that provides information and trainings to schools, colleges, and communities.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There will be no new action required on the part of regulated entities.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment provides clarification for the credentials and qualifications of service providers of rape crisis services. There is no new benefit for compliance.

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

(a) Initially: The amendment to this administrative regulation will be implemented with ongoing federal funds.

(b) On a continuing basis: The administrative regulation will be implemented within available appropriations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The services and programs contained in this administrative regulation are paid for by federal and state general funds. Federal funds include the Sexual Assault Services Program (SASP), Violence Against Women Act (VAWA), Victims of Crime Act (VOCA), Rape Prevention Education (RPE), and the Preventive Health and Health Services Block Grant (PHHSBG). VOCA and VAWA funding must be matched with 20% non-federal funding. State general funds provide this necessary match.

(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 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 to this administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as rape crisis center standards are the same statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 U.S.C. 12291-12512 contains the federal requirements for recipients of federal grant funding for sexual assault victims.

2. State compliance standards. KRS 194A.050(1), 211.602(2), 211.608 contain the statutory requirements for these regulated entities.

3. Minimum or uniform standards contained in the federal mandate. 34 U.S.C. 12291-12512 contains the federal requirements for recipients of federal grant funding for sexual assault victims.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate for this administrative regulation, but there are federal requirements for recipients of related grant funding.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services and rape crisis centers (quasi-governmental agencies) 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), 211.602(2), 211.608.

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

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

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

(c) How much will it cost to administer this program for the first year? The services and programs contained in this administrative regulation are paid for by federal and state general funds. Federal funds include the Sexual Assault Services Program (SASP), Violence Against Women Act (VAWA), Victims of Crime Act (VOCA), Rape Prevention Education (RPE), and the Health and Health Services Block Grant (PHHSBG). VOCA and VAWA funding must be matched with 20% non-federal funding. State general funds provide this necessary match. This amendment incurs no additional cost.

(d) How much will it cost to administer this program for subsequent years? This amendment incurs no additional cost 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:

NEW ADMINISTRATIVE REGULATIONS

GOVERNOR'S OFFICE
(New Administrative Regulation)

10 KAR 1:011. Defense of Employees.

RELATES TO: KRS 12.211, 12.212., 12.213, 12.215

STATUTORY AUTHORITY: KRS 12.213

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.213 requires the Governor, with the advice of the Attorney General, to adopt administrative regulations governing the methods of defense of employees or former employees of the Commonwealth.

Section 1. Definitions. When used in this administrative regulation:

(1) "Claim" means a claim whether or not a suit has been filed.

(2) "Civil action" means a civil suit filed in a state or federal court.

(3) "Defendant" means an employee or former employee of the Commonwealth who has been sued in a civil action in his or her official or individual capacity, or both, on account of an act or omission made in the scope and course of his or her employment as an employee of the Commonwealth and any of its agencies.

(4) "State agency" means any department, administrative body, division or program cabinet acting for the Commonwealth, but does not include local units of government such as a school districts, counties, sewer districts or other municipalities.

(5) "Acts and omissions liability insurance" means insurance to cover the cost of defending civil actions covered under this Act and paying judgments or settlements resulting therefrom.

Section 2. Notice of Claim; Investigation. An employee or former employee against whom a claim is made which may result in a civil action against him or her on account of an act or omission made in the course of his or her employment by a state agency should immediately report said claim and the circumstances surrounding the claim to the Attorney General. The Attorney General, if he or she thinks it warranted, may cause an investigation of the claim to be made by a regular or special investigator of his or her office.

Section 3. Application for Defense; Response. (1) Any person desiring the Attorney General to provide for his or her defense under this Act shall make a written request to the Attorney General and shall submit with the request a copy of the summons, complaint and all other papers, documents and exhibits pertaining to the action.

(2) The Attorney General shall make a timely response to the court by filing an answer or motion for the defendant provided the application for defense is received by the Attorney General at least ten (10) days before a pleading is due. The filing of a pleading in the case shall not commit the Attorney General to continue the defense if the Attorney General has not reached a final decision and notified the defendant that his or her defense will be provided.

(3) Upon receiving an application for defense, the Attorney General, after such investigation and research as he or she deems necessary, taking into consideration those factors set out in KRS 12.212, shall decide and notify the defendant whether defense will be provided, and if so, by what method set out in Section 4 of this administrative regulation. The Attorney General shall not be responsible for the defense of a defendant unless written acceptance of the defense has been made by the Attorney General.

(4) In every case where the Attorney General has made a general delegation of his or her discretionary power to decide when to provide defense to other authority in state government, such authority shall make the decision and the application for defense provided by this section need not be made to the Attorney General, provided that in such cases the authority making the decision shall provide legal counsel for the defense. All settlements made in such cases shall, however, be approved by the Attorney General as provided by Section 6 of this administrative regulation.

Section 4. Methods of Defense. (1) Except where the defendant is covered by insurance as provided in Section 5 of this administrative regulation, defense to a civil action may be provided in any of the following manners:

(a) The Attorney General may assign an assistant attorney general or a special assistant attorney general employed for that purpose to handle the case to conclusion by either settlement or final adjudication.

(b) The Governor or any department with the approval of the Governor may assign a regularly employed attorney under KRS 12.210 or an attorney employed under a personal service contract to handle the case as in paragraph (a) of this subsection.

(c) Any state agency may assign its employed counsel to handle the case.

(2) Regardless of the method of defense provided no settlement of litigation being defended under this administrative regulation shall be made without the approval of the Attorney General, except as provided in Section 6 of this administrative regulation.

(3) A defendant who has requested defense under this administrative regulation may elect to provide his or her defense by counsel employed by the defendant and in such case shall notify the counsel employed by the state of his or her election in writing.

Section 5. Insurance. (1) Any state agency or class of state agencies may be authorized by the Governor to purchase acts and omissions liability insurance for the protection of its employees and the benefit of the public.

(2) Any state agency which believes it is economically feasible to purchase acts or omissions liability insurance may request the Governor for authority to do so. The agency's request shall be documented with data as to the history of claims, probable cost of the insurance and any reasons it believes insurance is advisable for said agency.

(3) Any policy of acts and omissions liability insurance purchased by a state agency shall provide a maximum coverage of \$50,000 for each claim. Nothing in this administrative regulation shall be deemed to waive the sovereign immunity of the Commonwealth with respect to a claim covered by this administrative regulation or to authorize the payment of a judgment or settlement against a state employee in excess of the limit provided in any acts or omissions liability insurance purchased by a state agency.

(4) KRS 44.055 authorizes state agencies to purchase policies of insurance covering vehicles owned by the state. For this reason "defendant," as defined in Section 1(3) of this administrative regulation, does not include a person being sued for negligence in the operation of a state vehicle.

Section 6. Settlements. (1) Any counsel assigned by a state agency or the Attorney General may recommend to the Attorney General the settlement of a civil action against a defendant under this administrative regulation. If the Attorney General approves the settlement recommended he or she shall notify the Secretary of the Finance and Administration Cabinet by written memorandum and if the Secretary concurs in this recommendation the Secretary shall issue a voucher to the State Treasurer for payment of the settlement. No settlement shall be made or paid without the prior approval of the Attorney General.

(2) Guidelines for settlements. No settlement should be recommended unless the assigned counsel believes:

(a) The claim is legally valid,

(b) There is a strong probability of a judgment being rendered against the defendant,

(c) The settlement is a reasonable compromise in light of the nature of the claim.

(3) Defense counsel shall document the reasons for recommending a settlement in writing to the Attorney General and the documentation shall be a public record open to public inspection.

(4) This section shall not apply to any settlement reached by a

defendant or his or her insurer which results in no cost to the Commonwealth.

Section 7. Cost of Administration. The Attorney General shall be reimbursed for the cost to his or her office for the administration of KRS 12.211 to 12.215 upon vouchers submitted by the Attorney General and approved by the Secretary of the Finance and Administration Cabinet.

S. TRAVIS MAYO, Chief Deputy General Counsel
LA TASHA BUCKNER, Chief of Staff & General Counsel
APPROVED BY AGENCY: April 21, 2020
FILED WITH LRC: April 22, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 28, 2020, at 10:00 a.m. in Room 110, The Capitol Building, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by July 21, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend 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 July 31, 2020. 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: S. Travis Mayo, Office of the Governor, 700 Capitol Avenue, Suite 106, Frankfort, Kentucky 40601; Phone: 502-564-2611; Fax: 502-564-6858; travis.mayo@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: S. Travis Mayo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation continues the defense of employees or former employees of the Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to continue the defense of employees and former Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(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 continuing the defense of employees and former Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(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 continuing the defense of employees and former Commonwealth of Kentucky as required to be governed by regulation pursuant to KRS 12.213.

(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: The amendments to this administrative regulation are necessary to clarify Medicaid policy relating to copayments.

(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 government affected by this administrative regulation: Employees and former employees of the

Commonwealth of Kentucky; the Governor's Office; the Office of the Attorney General; the Finance and Administration Cabinet.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. The entities identified will continue the defense of employees and former employees of the Commonwealth of Kentucky as they have under the prior regulation, 10 KAR 1:010, and providing payment to the Attorney General for the cost of administration of KRS 12.211 to 12.215 pursuant to the 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 Attorney General will be reimbursed for the cost of administering KRS 12.211 to 12.215 upon vouchers submitted by the Attorney General and approved by the Secretary of the Finance and Administration Cabinet.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Employees and former employees of the Commonwealth of Kentucky will benefit from being provided a legal defense in civil actions in which they have been sued for alleged acts or omissions performed during the scope of their employment.

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

(a) Initially: The Governor's Office anticipates no additional costs as a result of this administrative regulation.

(b) On a continuing basis: The Governor's Office anticipates no additional costs as a result of this administrative regulation.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees, but continues fees prescribed by the prior administrative regulation.

(9) Tiering: Is tiering applied? Tiering is not applied.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. None.

2. State compliance standards. None.

3. Minimum or uniform standards contained in the federal mandate. None.

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

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 Governor's Office, the Office of the Attorney General, and the Finance and Administration Cabinet will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. None. KRS 12.213 requires promulgation of the 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? The Governor's Office expects this administrative regulation to generate revenue for the Office of the Attorney General in the form of reimbursement of the cost in administering the 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? The Governor's Office expects this administrative regulation to generate revenue for the Office of the Attorney General in the form of reimbursement of the cost in administering the administrative regulation.

(c) How much will it cost to administer this program for the first year? The cost to administer the administrative regulation for the first year is unknown, but the administrative regulation provides for reimbursement of the cost of administering the administrative regulation to the Office of the Attorney General.

(d) How much will it cost to administer this program for subsequent years? The cost to administer the administrative regulation for the subsequent years is unknown, but the administrative regulation provides for reimbursement of the cost of administering the administrative regulation to the Office of the Attorney General.

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

Revenues (+/-): The Office of the Attorney is to be reimbursed the cost of administering the program.

Expenditures (+/-): The Office of the Attorney is to be reimbursed the cost of administering the program.

Other Explanation:

**GOVERNOR'S OFFICE
Kentucky Department of Veterans' Affairs
Office of Kentucky Veterans' Centers
(New Administrative Regulation)**

17 KAR 1:030. Nurse Loan Repayment Program.

RELATES TO: KRS 18A.190, 40.320, 314.011

STATUTORY AUTHORITY: KRS 40.325(1), 40.327

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.325(1) authorizes state veterans' nursing homes. KRS 40.327(1) and (5) requires the Department of Veterans' Affairs (KDVA) and the Kentucky Higher Education Assistance Authority (KHEAA) to create a Veterans' Affairs Nurse Loan Repayment Program (VANLRPP) for registered nurses and licensed practical nurses within the Department's employ. KRS 40.327(6) requires administrative regulations necessary to operate this program. This administrative regulation establishes the eligibility requirements, the application process, the selection criteria, and the award process for the Nurse Loan Repayment Program.

Section 1: Definitions.

(1) "Full time" means working at least a forty (40) hour work week every week of the year, except for authorized and approved leave and holidays as established in KRS 18A.190.

(2) "Licensed practical nurse" is defined by KRS 314.011(9).

(3) "Registered nurse" is defined by:

(a) KRS 314.011(5); and

(b) Does not include nurse practitioners.

(4) "Satisfactory employment" means employment in which the applicant does not have disciplinary or corrective actions during the year being certified and in which the applicant is not currently on a performance improvement plan at the time the application is submitted.

Section 2. Eligibility Requirements. To be eligible to apply for the program, an applicant shall:

(1) Have a current Kentucky license as a registered nurse (RN) or as a licensed practical nurse (LPN);

(2) Be currently employed as an RN or LPN on a full-time basis at a Kentucky Department of Veterans Affairs' state veteran nursing home;

(3) Be a classified employee with status under KRS 18A; and

(4) Have completed at least one (1) year of full-time, satisfactory employment performance as an RN or LPN at a KDVA's state veteran nursing home in the year preceding the application; and

(5) If applying for loan repayment more than once, each application shall be consecutive to the prior application up to a maximum of four (4) consecutive applications and up to a maximum loan repayment for four (4) successful, consecutive applications of no more than forty thousand (\$40,000) dollars.

Section 3. Application Process. Each eligible applicant shall complete a Veterans Affairs Nurse Loan Repayment Program (VANLRP) Application and submit:

(1) The Veterans Affairs Nurse Loan Repayment (VANLRP) Application between January 1 and March 31; and

(2) One (1) copy of the annual evaluation, if any, which the applicant received for the immediate prior calendar year.

Section 4. Selection Process.

(1) The selection panel shall consist of the executive director of the Office of Kentucky Veterans Centers (OKVC), the deputy executive director of OKVC, and the administrator of the state veterans nursing home where the applicant is employed.

(2) Criteria for selection shall include:

(a) Availability of funding;

(b) The work performance of the applicant compared to other applicants; and

(c) The needs for additional nurses at the applicant's state veteran nursing home compared to the needs of the other state veterans nursing homes.

Section 5. Award Process. (1) Upon the selection panel awarding an applicant a loan repayment, the Commissioner of the Kentucky Department of Veterans Affairs shall issue an Award Letter to the applicant;

(2) The Award Letter shall state the amount of loan repayment of up to twenty-five (25) percent of the applicant's loan balance up to a maximum of ten thousand (10,000) dollars per application year.

(3) KDVA and the applicant shall enter into a binding contract stating the terms of the loan repayment on the Contract Between Nurse Loan Repayment Applicant and the Kentucky Department of Veterans Affairs document.

(4) OKVC shall notify the Kentucky Higher Education Assistance Authority to implement the repayment and the Personnel Cabinet to process the taxable amount through employee payroll.

Section 5. Appeals. Denial by the selection panel shall not be considered a sanction shall not be appealable.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Contract Between Nurse Loan Repayment Applicant and the Kentucky Department of Veterans Affairs", 2020;

(b) "Veterans Affairs Nurse Loan Repayment Program (VANLRP) Application", 2020; and

(c) "Award Letter", 2020.

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Veterans Affairs, 1111B Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

KEITH L. JACKSON, Commissioner

MARK BOWMAN, Executive Director, OKVC
GENE HUTCHINS, CEO/Chief Executive Office

APPROVED BY AGENCY: May 14, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 30, 2020 at 10 a.m. (EDST) at the Kentucky Department of Veterans Affairs, 1111B Louisville Road, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by July 30, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through July 31, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Mark Bowman, Executive Director, Office of Kentucky Veterans' Centers, Kentucky Department of Veterans' Affairs, 1111B Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-5725, fax (502) 564-4036, email Mark.Bowman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Bowman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This provides regulatory guidance for the Veterans Affairs Nurse Loan Repayment Program as required by KRS 40.327(6);

(b) The necessity of this administrative regulation: This regulation is statutorily mandated in KRS 40.327(6) and guides both applicants and the agency in properly implementing the Veterans Affairs Nurse Loan Repayment Program. The regulation provides the necessary specific process for applying to the Program, the eligibility requirements, the selection panel, and the implementation of applicants who are awarded loan repayment;

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 40.327 mandates a nurse loan repayment program and this regulation conforms to the mandate, identifies the class of nurse applicants as stated in the statute, and contains the maximum monetary repayment amount provided for in the statute;

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation contains by reference the key documents required of applicants so the purpose of the statutes cited can be carried out. These documents are the application, the contract between the applicant and the agency, and the award letter

(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: registered nurses, licensed practical nurses, Eastern Kentucky Veterans Center, Western Kentucky Veterans Center, Thomson-Hood Veterans Center, Radcliff

Veterans Center;

(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: Nurses employed by the Kentucky Department of Veterans Affairs, if accepted into the program, will be able to have part or all of their student loans repaid by KDVA, thus attracting nurses to apply to work for KDVA improving recruitment and keeping nurses thus improving retention.; and

(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 registered nurses and licensed practical nurses must complete one year of satisfactory employment at a KDVA veterans nursing home prior to applying, must apply, and must sign a contract with KDVA;

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The nurse applicants to the Program will not incur costs but, if accepted and awarded a repayment amount will benefit by having some or all of their student loan paid by the agency;

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As stated, nurses will accrue the benefit of loan repayment and the agency will accrue the benefit of more effective recruitment and retention, improving the stability of its workforce, and ensuring that Kentucky veterans in need of long-term medical care have adequate nursing staff to care for them;

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

(a) Initially: The initial projection, using \$10,000 as a maximum repayment amount for any one applicant, is \$240,000, which will fund up to 24 applicants the first year;

(b) On a continuing basis: Depending on the staffing needs of KDVA's four state veterans nursing homes, \$240,000 is the annual target figure, or \$480,000 over a biennium;

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Initially, the funds will come out of the existing KDVA budget, but, in going forward, an Additional Budget Request (ABR) will be sought;

(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 other than the ABR mentioned above.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applied because the regulated entities are limited to licensed nurses, no non-licensed entities can apply, nurse practitioners are excluded from applying, and the goal of the regulation is to attract retain nurses.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government will be impacted by this administrative regulation? The four state veterans' nursing homes at Wilmore, Hanson, Hazard, and Radcliff will be impacted by this regulation change as well as any state veterans nursing home constructed in the future.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 40.327(6) directs the Kentucky Department of Veterans Affairs and the Kentucky Higher Education Assistance Authority to promulgate regulations necessary to effect a nurse loan repayment program.

(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. It is estimated that there will be no appreciable impact on the expenditures and revenues of any state or local government agency.

(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 is not a revenue-producing 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? This regulation will not produce revenue.

(c) How much will it cost to administer this program for the first year? The estimated first year cost to administer this program will be \$240,000.

(d) How much will it cost to administer this program for subsequent years? The estimated subsequent year costs to administer this program will be \$240,000.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

BOARDS AND COMMISSIONS
Kentucky Board of Pharmacy
(New Administrative Regulation)

201 KAR 2:311. Compounding for veterinary use.

RELATES TO KRS 315.191(1)(a). STATUTORY AUTHORITY: KRS 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) requires the board to promulgate administrative regulations to regulate and control all matters relating to pharmacists, pharmacist interns, pharmacy technicians, and pharmacies. This administrative regulation addresses compounding for veterinary use.

Section 1. A pharmacist, pharmacist intern, or pharmacy technician may prepare a compounded drug to be dispensed for a veterinarian's administration with beyond use dates as assigned in accordance.

Section 2. A compounded drug that contains a controlled substance shall only be compounded for patient specific dispensation directly from pharmacy to the ultimate user.

Section 3. The pharmacist shall receive a written, verbal, facsimile, or electronic request for a compounded drug from a practitioner, indicating the formulation, strength, and quantity ordered.

Section 4. Label Requirements. A label shall be generated for the compounded drug and shall include:

- (1) The name of the practitioner;
- (2) The designated name and strength of the compounded drug;
- (3) The quantity dispensed;
- (4) A lot or batch number of the compounded drug;
- (5) The beyond use date for the compounded drug;
- (6) The date the compounded is dispensed;
- (7) The pharmacy's name, address, and telephone number;
- (8) Any special storage requirements;
- (9) A notation stating "For Office or Institutional administration for veterinary use";
- (10) Any auxiliary label required for the compounded drug.
- (11) The compounded drug shall be administered or dispensed by the veterinarian or veterinarian technician for emergency take home use for up to a 14 day supply in accordance with veterinarian labeling requirements.

Section 5. The prescription for the compounded drug shall be kept pursuant to 201 KAR 2:170.

LARRY A. HADLEY, R.Ph., Executive Director

APPROVED BY AGENCY: May 15, 2020

FILED WITH LRC:

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 29, 2020, at 9:00 a.m. Eastern Time by Zoom Teleconference. Individuals interested in being heard, 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 July 31, 2020. 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: Larry Hadley, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Larry.Hadley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Hadley

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation addresses compounding for use by a veterinarian's office administration or institutional administration for veterinary use.

(b) The necessity of this administrative regulation: KRS 315.191(1)(a) requires the board to promulgate administrative regulations to regulate and control all matters relating to pharmacists, pharmacist interns, pharmacy technicians, and pharmacies. This administrative regulation addresses compounding for use by a veterinarian's office administration or institutional administration for veterinary use.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation addresses compounding for use by a veterinarian's office administration or institutional administration for veterinary use.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Retitle this regulation to Compounding for a veterinarian's office or institutional administration for veterinary use. Update language to restrict this practice to veterinary use.

(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: Retitle this regulation; Retitle this regulation to Compounding for a veterinarian's office or institutional administration for veterinary use. Update language to restrict this practice to veterinary use.

(b) The necessity of the amendment to this administrative regulation: The criteria needed to be updated.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 315.191 authorizes the board to promulgate administrative regulations pertaining to pharmacists and pharmacies.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will further promote, preserve, and protect public health through effective regulation of pharmacists and pharmacies by updated language to restrict this practice to veterinary use.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates pharmacies and pharmacists will be affected minimally by this regulation amendment.

(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: Pharmacies and pharmacists will have to familiarize themselves with amended language. The board will help to educate pharmacists and pharmacies in these changes.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will clarify previous statutory language.

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

(a) Initially: No costs will be incurred.

(b) On a continuing basis: No costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Board revenues from pre-existing fees provide the funding to enforce the regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required because of this new regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation is applicable to all pharmacists and sponsors that desire approval for continuing education credit.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.191(1)(a).

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

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

(c) How much will it cost to administer this program for the first year? No costs are required to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? No costs are required 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. N/A

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation:

BOARDS AND COMMISSIONS

Board of Licensure for Long-term Care Administrators (New Administrative Regulation)

201 KAR 6:100. Per diem compensation of board members.

RELATES TO: KRS 216A.060

STATUTORY AUTHORITY: KRS 216A.060(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.060(2) provides that members of the board shall receive per diem compensation to be established by administrative regulation, and that the compensation shall not exceed \$120 per day. This administrative regulation establishes the per diem compensation to be received by board members.

Section 1. Each member of the board shall receive per diem compensation of \$120 for attending each board meeting or otherwise discharging their official duties of the board.

KENNETH URLAGE, Chair

APPROVED BY AGENCY: May 14, 2020

FILED WITH LRC: May 14, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM EST on July 22, 2020 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. In the event the declaration of a State of Emergency in Executive Order 2020-215 and the State of Emergency Relating to Social Distancing in Executive Order 2020-243 are not rescinded by July 22, 2020, this hearing will be done by video teleconference. Members of the public wishing to attend may utilize the following link:

Join from PC, Mac, Linux, iOS or Android:

<https://zoom.us/j/153999547?pwd=NHpUQVNCVnk4wV0VfbkthRUk5cHJtQT09>

Password: 649057

Or Telephone:

Dial: USA 713 353 0212

USA 8888227517 (US Toll Free)

Conference code: 497796

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 PM EST on July 31, 2020. 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: Leah Boggs, Board Counsel, 500 Mero Street 218NC, phone +1 (502) 782-0151, fax +1 (502) 564-3969, email LBoggs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leah Boggs

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 216A.060(2) provides that board members shall receive per diem compensation to be established by administrative regulation, and that the compensation shall not exceed \$120 per day. This regulation sets the per diem compensation.

(b) The necessity of this administrative regulation: KRS 216A.060(2) requires that board members shall receive per diem compensation to be established by administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 216A.060(2) provides that board members shall receive per diem compensation to be established

by administrative regulation, and that the compensation shall not exceed \$120 per day. This regulation sets the per diem compensation at \$120, which is within the bounds of KRS 216A.020(2).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS 216A.060 by carrying out the legislative mandate for the board to establish per diem compensation by a regulation.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Only the ten (10) members of the board 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: In order to comply with this regulation, board members will have to attend board meetings or perform official duties on behalf of the board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This administrative regulation will not cost board members anything.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance, the board members will receive the benefit of per diem compensation, and the public will be on notice how much compensation board members receive.

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

(a) Initially: Historically, the board met an average of four (4) times per year. To implement this administrative regulation, it will cost the board \$1,200 per board meeting if all ten (10) members the board attend. The board is scheduled to meet six (6) times in 2020 for a total of \$7,200 per diem cost if all ten (10) members attend all currently scheduled meetings. If board members discharge their board duties on days other than the scheduled board meeting dates, then the cost will increase accordingly.

(b) On a continuing basis: Same as above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation and enforcement of this administrative regulation will be the board's general funds, which are funded from fees paid by applicants and licensees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the compensation is paid to each board member.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Board of Licensure for Long-term Care Administrators 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 216A.060(2).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. 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 is not a revenue-generating 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? This is not a revenue-generating administrative regulation.

(c) How much will it cost to administer this program for the first year? To implement this administrative regulation, it will cost the board \$1,200 per board meeting if all ten (10) members the board attend. If the board meets six (6) times in a year, the total per diem cost for a year will be \$7,200 if all ten (10) members attend all scheduled meetings. If board members discharge their board duties on days other than the scheduled board meeting dates, then the cost will increase accordingly.

(d) How much will it cost to administer this program for subsequent years? To implement this administrative regulation, it will cost the board \$1,200 per board meeting if all ten (10) members the board attend. If the board meets six (6) times in a year, the total per diem cost for a year will be \$7,200 if all ten (10) members attend all scheduled meetings. If board members discharge their board duties on days other than the scheduled board meeting dates, then the cost will increase accordingly.

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

BOARDS AND COMMISSIONS

Board of Medical Imaging and Radiation Therapy (New Administrative Regulation)

201 KAR 46:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.

RELATES TO: KRS 311B.050, 311B.130

STATUTORY AUTHORITY: KRS 311B.050, 311B.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B and designate funds for scholarships, program development, or continued education. KRS 311B.130 appropriates that moneys collected shall be used for the payment of operational expenses incurred in fulfilling the board's duties as described in KRS Chapter 311B and administrative regulation. This administrative regulation implements the Kentucky Medical Imaging and Radiation Therapy and Continuing Education Fund and establishes the requirements relating to the program.

Section 1. Application:

(1) To be eligible for the scholarship, an applicant shall submit:

(a) A completed and signed application KBMIRT Form 10;

(b) A current resume or curriculum vitae;

(c) Three letters of recommendation;

(d) Official transcripts from highest level of education achieved; and

(e) Written statement describing applicant's professional goals, not to exceed two hundred fifty (250) words.

(2) In addition to items listed in Section 1(1)(a) through (e), an individual seeking scholarship for a non-degree program, such as structured education or limited x-ray machine operator program, shall also submit a document describing the financial obligations required of the program.

(3) Applications shall be accepted from January 1 through April 1 annually.

Section 2. Criteria for Awards.

(1) The board shall consider the following criteria in evaluating an application:

- (a) Resident of Kentucky or employed in Kentucky;
- (b) Potential for academic success as determined by the high school, vocational school, college, or university grade point average for whichever institution the applicant most recently attended;
- (c) Previous healthcare experience, either paid or volunteer, for each year in which service is validated; and
- (d) Written statement of professional goals.

(2) The applicant shall be considered ineligible for award if the application is:

- (a) Postmarked after April 1;
- (b) Deemed incomplete; or
- (c) Submitted for a medical imaging modality not recognized by the board.

Section 3. Procedure for Disbursement of Awards.

(1) The board shall be notified by the board's fiscal officer as to the current fund balance prior to making an award. The amount of award shall be determined by the board and shall not exceed \$1500 annually per recipient.

(2) Disbursement of funds shall be made directly to the recipient.

(3) Each educational institution in which a student receiving a medical imaging, radiation therapy, or limited x-ray machine operator scholarship award is enrolled shall certify to the board no later than thirty (30) days from the beginning of each semester, that the recipient:

- (a) Has enrolled; and
- (b) Is in good standing in the medical imaging, radiation therapy, or limited x-ray machine operator program.

(4) For a recipient receiving award for continued education, the recipient shall provide:

- (a) Confirmation of enrollment into structured education course; and
- (b) Approval letter from clinical site.

Section 4. Disbursement Contract and Promissory Note. Prior to disbursement of initial funds, the recipient shall sign KBMIRT Form 12 and KBMIRT Form 13.

Section 5. Repayment and Deferral.

(1) A recipient shall immediately become liable to the board to pay the sum of all scholarships received and the accrued interest on the scholarships if the recipient fails to complete the:

- (a) Medical imaging, radiation therapy, or limited x-ray machine operator program in which the individual is enrolled within the time specified by the program;
- (b) Structured education course or clinical requirements required to qualify for the post-primary certification within the time specified by the ARRT or NMTCB; or
- (c) Required employment as specified in the contract.

(2) Written notification of demand for repayment shall be sent by the board to the scholarship recipient's last known address and shall be effective upon mailing.

(a) The board may agree to accept repayment in installments in accordance with a schedule established by the board.

(b) Payments shall first be applied to interest and then to principal on the earliest unpaid contracts.

(3) Repayment may be deferred in the case of disability, major illness, or accident that prevents a recipient from completing a program or being employed as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky.

(4) A student enrolled in a program may defer repayment if the student fails to achieve successful academic progression.

Section 6. Verification.

(1) Verification of employment as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky pursuant to the contract shall be submitted to the board when the recipient's employment commitment begins and when it is completed. A termination of employment prior to completion shall be reported to the board within thirty (30) days by the employer and the recipient.

(2) A recipient shall notify the board of a change of name or address or enrollment status in school immediately and within thirty (30) days of change.

Section 7. Incorporated by Reference. (1) The following forms are incorporated by reference:

(a) KBMIRT Form 10, "Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund Application", March 2020

(b) KBMIRT Form 11, "Verification of Student Status", March 2020

(c) KBMIRT Form 12, "Scholarship Fund Contract", March 2020

(d) KBMIRT Form 13, "Scholarship Fund Promissory Note", March 2020

(e) KBMIRT Form 14, "Scholarship Fund Request for Deferral", March 2020

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, 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 PM on July 31, 2020. 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: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements the Kentucky Medical Imaging and Radiation Therapy and Continuing Education Fund and establishes the requirements relating to the program in accordance with KRS 311B.050.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.0010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal and revocation of licenses; the establishment of

a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes procedures for the Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund to promote medical imaging and radiation therapy entry-level education as well as the continued education of licensees; also promotes employment in the Commonwealth of Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding licensure and establishing scholarship and continued education funds.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation implements the Kentucky Medical Imaging and Radiation Therapy and Continuing Education Fund and establishes the requirements relating to the program in accordance with KRS 311B.050.

(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: Approximately 300 state health care organizations and approximately 7,500 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: No action is required. If an individual is interested in obtaining a scholarship, this regulation establishes procedures for application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no cost to entities.

(c) As a result of compliance, what benefits will accrue to the entities: This regulation will provide means for an individual to apply to receive a scholarship for entry level education for an individual or continued education for a licensee.

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

(a) Initially: The Board will evaluate balance of restricted fund to determine what amount to earmark for scholarship fund.

(b) On a continuing basis: The Board will evaluate balance of restricted fund to determine what amount to earmark for scholarship fund.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board's operations are funded by fees paid by licensees and applicants; the Board will evaluate restricted fund balance prior to designating funds to scholarship fund.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the regulation applies similarly to similarly situated licensees and applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.050 and KRS 311B.130

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

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to administer the proposed regulation.

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

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of May 12, 2020

Call to Order and Roll Call

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 12, 2020 at 1:00 p.m. In Room 171 of the Capitol Annex. Senator West, Co-Chair, called the meeting to order, the roll call was taken. There were no minutes from April 2020 to approve.

Present were:

Members: Senators Julie Raque Adams, Alice Forgy Kerr and Stephen West. Representatives Deanna Frazier and Marylou Marzian.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

Guests: Todd Allen, Education Professional Standards Board, Department of Education; Stafford Easterling, Personnel Board; Larry Hadley, Board of Pharmacy; Leanne Diakov, Board of Medical Licensure; Julie Campbell, Board of Cosmetology; Morgan Ransdell, Board of Nursing; Clint Quarles, Department of Agriculture; Paulette Akers, Michael Mullins, Department of Natural Resources; Amy Barker, Department of Corrections; Heidi Schissler, Kevin Sharkey, Department for Public Advocacy; DJ Wasson, Department of Insurance; Max Fuller, Department of Housing, Buildings, and Construction; Kelli Rodman, Office of the Secretary; Julie Brooks, Department for Public Health; Laura Begin, Department for Community Based Services.

The Administrative Regulation Review Subcommittee met on Tuesday, May 12, 2020, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Educator Preparation

16 KAR 5:020. Standards for admission to educator preparation. Todd Allen, interim general counsel, represented the board.

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.

PERSONNEL: Personnel Board

101 KAR 1:325. Probationary periods. Stafford Easterling, general counsel, represented the board.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns. Larry Hadley, executive director, represented the board.

In response to a question by Co-Chair West, Mr. Hadley stated that the changes to this administrative regulation were to simplify the process for supervision of interns.

In response to a question by Representative Frazier, Mr. Hadley stated that a supervising pharmacist was required to be present in the building with an intern.

A motion was made and seconded to approve the following: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to clarify that a pharmacist intern, under the supervision and direction of a licensed pharmacist, shall practice pharmacy pursuant to KRS 315.010(22), with the exception that prior to dispensing, a pharmacist shall verify the accuracy and appropriateness to include drug utilization review and final product verification of the prescription or product dispensed. Without objection, and with agreement of the agency, the amendments were approved.

Board of Medical Licensure

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

Combined-with-Naloxone. Leanne Diakov, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Cosmetology

201 KAR 12:030. Licensing, permits, and examinations. Julie Campbell, board administrator, represented the board.

In response to questions by Co-Chair West, Ms. Campbell stated that active duty military was intended to include reserves, National Guard, and veterans. The board did not have many military personnel utilizing these provisions.

In response to a general question by Representative Frazier, Ms. Campbell stated that legislation would be required in order to amend place-of-service requirements. Statutory exemptions could not be expanded by administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 3 to restore language with the minimum number of hour requirements for curriculum for applicants licensed in other states to conform with KRS 317A.050; and (3) to amend Section 20 to update the Out of State Transfer Application and Limited Facility Permit Application to: (a) comply with the drafting requirements of KRS Chapter 13A; (b) correct fees; and (c) make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:060. Inspections.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:082. Education requirements and school administration.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 18, 32, and 33 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:100. Infection control, health and safety. A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4, 6, 7, 9 through 11, and 17 through 21 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to complete the definition for "porous"; and (3) to add Section 22, to establish requirements for autoclaves. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:140. School equipment.

In response to questions by Co-Chair West, Ms. Campbell stated that biometric provisions were to ensure that attempts at licensure were not fraudulent. The board had experienced instances of fraud. Biometric screening could be as simple as a fingerprint scan.

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.

201 KAR 12:260. Fees.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to comply with the

drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing

201 KAR 20:600. Standards for training programs for licensed certified professional midwives. Morgan Ransdell, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to add a definition for "preceptor"; and (3) to amend Section 8 to incorporate by reference the Core Competencies and Standards of Practice of the Midwives Alliance of North America forms. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:610. Approval process for training programs for licensed certified professional midwives.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to delete the definition for "preceptor." Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:620. Licensing requirements for licensed certified professional midwives.

In response to a question by Senator Raque Adams, Mr. Ransdell stated that the board was not currently planning to lower the \$1,000 initial licensure and renewal fee; however, the board had the authority to reconsider the amount. The fee amount was based upon the cost of regulating a small number of licensees, which required implementation of a new electronic system. This fee was expected to impact approximately twenty (20) licensees. Senator Raque Adams stated that the fee seemed high and that she might ask the board to consider lowering it in the future.

In response to a question by Co-Chair West, Mr. Ransdell stated that the initial licensure fee for an RN was \$135. The corresponding renewal fee was sixty-five (65) dollars. Co-Chair West reiterated Senator Raque Adams concern about the high fee and the possible need to revisit this issue in the future.

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 and 7 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:630. Disciplinary actions for licensed certified professional midwives.

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.

201 KAR 20:640. Requirements for informed consent for licensed certified professional midwives.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO 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.

201 KAR 20:650. Licensed certified professional midwives permitted medical tests and formulary.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and

Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:660. Licensed certified professional midwives duty to report.

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, 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.

201 KAR 20:670. Licensed certified professional midwives consultation, collaboration, and referral provisions.

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 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:680. Licensed certified professional midwives client records.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO 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.

201 KAR 20:690. Licensed certified professional midwives transfer guidelines.

In response to questions by Senator Raque Adams, Mr. Ransdell stated that transfer provisions related to the hand-off of a patient with home-delivery complications to an emergency room of a hospital. The transfer provisions were developed by the midwife as a contingency and were a component of the plan of care. There was communication between the midwife and the hospital in developing the plan. The plan specifications depended on the complications of the individual delivery. Senator Raque Adams stated that the provisions seemed to need clarification in the future.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO 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.

DEPARTMENT OF AGRICULTURE: Office of the Commissioner: Livestock Sanitation

302 KAR 20:012. Repeal of 302 KAR 020:030, 302 KAR 020:050, 302 KAR 020:052, 302 KAR 020:66, 302 KAR 020:090, 302 KAR 020:100, and 302 KAR 020:150. Clint Quarles, counsel, represented the department.

302 KAR 20:013. Repeal of 302 KAR 020:110, 302 KAR 020:115, 302 KAR 020:120, 302 KAR 020:130, 302 KAR 020:140, 302 KAR 020:180, 302 KAR 020:185, and 302 KAR 020:261.

302 KAR 20:014. Repeal of 302 KAR 020:070.

Office of the State Veterinarian: Livestock, Poultry, and Fish

302 KAR 22:130. Equine.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 7, 10 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.

302 KAR 22:150. Cervids.

In response to questions by Co-Chair West, Mr. Quarles stated that the department worked closely with the Department of Fish and Wildlife Resources regarding the prevention of chronic wasting disease in cervids. Duplication of effort was not an issue because the Department of Fish and Wildlife Resources was responsible for the fence and the area beyond the fence perimeters, while the Office of State Veterinarian was responsible for regulation within the containment area up to the fence.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 14, 16, 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.

Office of Agricultural Marketing: Ginseng

302 KAR 45:010. Ginseng.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 4, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Conservation: Administration

416 KAR 1:010. Administration of Kentucky Soil Erosion and Water Quality Cost-Share Fund. Paulette Akers, division director, and Michael Mullins, regulation coordinator, represented the division.

In response to a question by Co-Chair West, Ms. Akers stated that previous versions of this administrative regulation required that cost-share funds not spent be returned to the division. It was often difficult to get that money returned. In the late 1990s or early 2000s, the division began reimbursing unspent funds directly to the district based on farmers' receipts.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 8 and 10 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to establish that: (a) cost-sharing assistance applicants shall complete management practices within one (1) year of approval; (b) upon request, the division shall grant a six (6) month extension; and (c) after two (2) extensions have been granted and expired, the landowner shall forfeit the right to cost-sharing assistance funds. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:020. Corrections policies and procedures. Amy Barker, assistant general counsel, represented the department. Kevin Sharkey, attorney, Kentucky Protection and Advocacy, appeared in opposition to this administrative regulation.

In response to questions by Co-Chair West, Ms. Barker stated that this administrative regulation represented the department's annual or biannual review of standard policies. The department was updating various policies, including a broad range of topics.

In response to questions by Co-Chair West, Mr. Sharkey stated that Kentucky Protection and Advocacy provided legal services for the protection of the rights of individuals with disabilities. CPP 5.1 currently prohibited medical testing on inmates. This proposed version reversed that prohibition. Kentucky Protection and Advocacy preferred to maintain the prohibition; however, if the prohibition was being reversed; due to the disproportionate number of inmates with diminished capacity, the coercive nature of incarceration, and historical abuses; an exclusion should be included for those with diminished decision-making capacity, mental illness, or traumatic brain injury. The proposed exclusion was only for inmates with intellectual disabilities. Participation in medical testing should be only voluntary. CPP 13.13 also needed amendment. Kentucky Protection and Advocacy was opposed to placing inmates with serious mental illness in solitary confinement. The Eighth Amendment (US Constitution) prohibited cruel and unusual punishment. The US Supreme Court has held that the Eighth Amendment (US

Constitution) prohibited prison officials from disregarding known substantial risks of serious harm. Solitary confinement was dangerous for inmates with serious mental illness and often caused existing conditions to clinically deteriorate, including, for example, increased anxiety, depression, anger, cognitive disturbances, obsessive thoughts, psychosis, and suicidal thoughts. One of the nation's top experts in mental health has stated that solitary confinement of inmates with serious mental illness was an extreme hazard to their mental health, causing irreparable emotional damage, psychiatric disability, extreme mental anguish, and suffering. In some cases, these inmates were at higher risk of self-injury or suicide. Solitary confinement was in opposition to evolving norms. Numerous medical and governmental organizations agreed. Several court decisions determined that this practice constituted a violation of the Eighth Amendment (US Constitution.) Kentucky Protection and Advocacy preferred a prohibition against solitary confinement of inmates with serious mental illness but, if absolutely necessary, that confinement should occur only with supports, such as meaningful human interaction, purposeful activities, out-of-cell time, and adequate mental health services.

In response to questions by Co-Chair West, Ms. Barker stated that the department had mental health staff and multidisciplinary teams to manage inmates with mental health issues. Solitary confinement was sometimes necessary due to the age of Kentucky's facilities, staffing limits, and budgetary restraints. The change to CPP 5.1 was initiated by clinical trial partners that needed inmates for medical trials. Coercion was not a factor. Medical testing prohibitions were being lifted because federal prohibitions had changed. Medical testing included research of all sorts, not just clinical testing. The department's agency amendment addressed concerns about consent but did not go as far as Kentucky Protection and Advocacy preferred. All studies were voluntary.

In response to a question by Representative Frazier, Ms. Barker stated that most of the trial partners were university affiliates. A mentally ill inmate would be unable to voluntarily consent.

In response to questions by Representative Marzian, Ms. Barker stated that department facilities had psychologists available. An inmate in need of services could make a request to any staff member. There was a triage process for receiving care. Ms. Barker stated that she was unaware what services would be available to inmates released due to coronavirus.

In response to questions by Co-Chair West, Mr. Sharkey stated that the department's amendment to CPP 5.1 only applied to inmates with intellectual disabilities and did not go far enough to protect inmates with diminished decision-making abilities for other reasons such as mental illness or traumatic brain injury. CPP 13.13 also did not go far enough in protecting inmates with serious mental illness from the possible damaging effects of solitary confinement.

In response to a question by Co-Chair West, Ms. Barker stated that the department agreed to continue working with Kentucky Protection and Advocacy regarding these policies. Co-Chair West stated that these issues may also be addressed at the subject matter committee.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 and the material incorporated by reference to: (a) clarify various provisions; (b) correct statutory citations; (c) update edition dates; and (d) comply with the drafting requirements of KRS Chapter 13A; (2) to amend CPP 5.1, Research, Surveys, and Data Requests, to establish screening procedures for inmates suspected of having an intellectual disability; and (3) to amend CPP 13.13, Behavioral Health Services, to clarify housing procedures for: (a) inmates whose current mental health situation does not permit successful placement in general population; and (b) inmates presenting with severe mental illness. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: Pupil Transportation

702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training. Todd Allen, interim general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 2, 4, 5, 7, 9, 12, and 19 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Learning Support Services

704 KAR 7:090. Homeless children and youth education program and ensuring educational stability of children in foster care.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:025. Credit for reinsurance. D. J. Wasson, executive advisor, represented the department.

In response to a question by Co-Chair West, Ms. Wasson stated that this administrative regulation did not relate to stacking.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3 through 11, 14, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to add a definition. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings, and Construction: Division of Plumbing: Plumbing

815 KAR 20:191. Minimum fixture requirements. Max Fuller, deputy commissioner, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 1 and Section 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Epidemiology and Health Planning: Communicable Diseases

902 KAR 2:065. Immunization requirements for long-term care facilities. Kelli Rodman, executive director, and Julie Brooks, regulation coordinator, represented the division.

In response to questions by Co-Chair West, Ms. Brooks stated that the division required long-term facilities to offer pneumococcal vaccines to residents and staff. Changes included provisions for planning for illnesses. These changes aligned requirements with the division's other administrative regulations. The outbreak data reporting requirement changes pertained to the forms and the process for making a report. This administrative regulation was initially filed prior to the coronavirus outbreak.

In response to a question by Representative Frazier, Ms. Brooks stated that the division didn't mandate the vaccinations but required them to be available and offered.

A motion was made and seconded to approve the following amendment: to amend Section 2 to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

Department for Community Based Services: Division of Child Care: Day Care

922 KAR 2:090. Child-care center licensure. Kelli Rodman, executive advisor, and Laura Begin, regulation coordinator, represented the division.

In response to a question by Co-Chair West, Ms. Begin stated that these administrative regulations were initially filed prior to the coronavirus outbreak. These provisions were intended to assist child-care providers with hiring and maintaining required staff by providing for temporary, contracted substitute staff. Deadlines for required training for child-care staff were streamlined.

Day Care

922 KAR 2:100. Certification of family child-care homes.

A motion was made and seconded to approve the following amendment: to amend Section 11 for consistency with 922 KAR 002:090. Without objection, and with agreement of the agency, the amendment was approved.

The following administrative regulations were deferred or removed from the May 12, 2020, subcommittee agenda:

SECRETARY OF STATE: Notary Public

30 KAR 8:005 & E. Notary Public applications and electronic and online registrations.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:230. Special limited pharmacy permit – Central Fill.

Board of Dentistry

201 KAR 8:550. Anesthesia and sedation.

201 KAR 8:590. Teledentistry.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:555. Ground agencies.

DEPARTMENT OF AGRICULTURE: Office of the Consumer and Environmental Protection: Egg Marketing

302 KAR 10:011. Repeal of 302 KAR 010:010, 302 KAR 010:020, 302 KAR 010:030, 302 KAR 010:040, 302 KAR 010:050, 302 KAR 010:060, 302 KAR 010:070, 302 KAR 010:080, and 302 KAR 010:090.

302 KAR 10:015. Egg grading and classification.

302 KAR 10:025. License application, refusal, revocation, suspension, and appeals.

302 KAR 10:100. Refrigeration of eggs and temperature requirements.

Office of the State Veterinarian: Livestock, Poultry, and Fish

302 KAR 22:050. Stockyards.

Office of Agricultural Marketing: Industrial Hemp

302 KAR 50:012. Repeal of 302 KAR 050:040 and 302 KAR 050:050.

302 KAR 50:020. Policies and procedures for hemp growers.

302 KAR 50:030. Policies and procedures for hemp processors and handlers.

302 KAR 50:055. Sampling and THC testing, post-testing actions, disposal of noncompliant harvests.

302 KAR 50:060. Fees for the Hemp Licensing Program and forms.

LABOR CABINET: Department of Workplace Standards: Division of Safety and Health Compliance: Division of Safety and Health Education and Training: Occupational Safety and Health

803 KAR 2:180. Recordkeeping, reporting, statistics.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Flat and Steeplechase Racing

810 KAR 4:030. Entries, subscriptions, and declarations.

Standardbred Racing

810 KAR 5:060. Entries and starters.

810 KAR 5:070. Running of the race.

Incentive and Development Funds

810 KAR 7:040. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund.

Medication Guidelines

810 KAR 8:010. Medication; testing procedures; prohibited practices.

810 KAR 8:070. Bisphosphonates.

Harness Racing

811 KAR 1:250. Exotic wagering.

CABINET FOR HEALTH AND FAMILY SERVICES: Kentucky Health Program: Medicaid Services

895 KAR 1:002E. Repeal of 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, and 895 KAR 001:055.

Office of Inspector General: Division of Certificate of Need: Certificate of Need

900 KAR 6:075 & E. Certificate of need nonsubstantive review.

DEPARTMENT FOR PUBLIC HEALTH: Division of Healthcare: Health Services and Facilities

902 KAR 20:036. Operation and services; personal care homes.

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 2:20 p.m. The next meeting of the subcommittee is tentatively scheduled for June 9, 2020, 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.

HOUSE STANDING COMMITTEE ON AGRICULTURE

Meeting of January 15, 2020

The following administrative regulations were available for consideration and placed on the agenda of the House Committee on Agriculture for its meeting of January 15, 2020, having been referred to the Committee on January 2, 2020, pursuant to KRS 13A.290(6):

302 KAR 050:050 THC sampling and testing, post-testing actions

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 15, 2020 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

SENATE STANDING COMMITTEE ON AGRICULTURE

Meeting of January 28, 2020

The following administrative regulations were available for consideration and placed on the agenda of the Senate Committee on Agriculture for its meeting of January 28, 2020, having been referred to the Committee on January 2, 2020, pursuant to KRS 13A.290(6):

302 KAR 050:050 THC sampling and testing, post-testing actions

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 28, 2020 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

HOUSE STANDING COMMITTEE ON AGRICULTURE

Meeting of February 26, 2020

The following administrative regulations were available for consideration and placed on the agenda of the House Committee on Agriculture for its meeting of February 26, 2020, having been referred to the Committee on February 5, 2020, pursuant to KRS 13A.290(6):

302 KAR 015:010 Administration; state aid to local fairs

302 KAR 015:020 Dairy cattle shows and sales

302 KAR 015:030 Beef cattle shows and sales

302 KAR 021:011 Repeal of 302 KAR 21:005

302 KAR 022:030 Livestock, poultry, and fish diseases to be reported

302 KAR 037:010 Proposed Forage Testing Program

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 26, 2020 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 46th year of the *Administrative Register of Kentucky*, from July 2019 through June 2020.

Locator Index - Effective Dates

L - 2

The Locator Index lists all administrative regulations published during this *Register* year. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other actions that may affect the regulation. NOTE: Regulations listed under REGISTER YEAR 45 are regulations that were originally published in last year's issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *Register* year ended.

KRS Index

L - 17

A cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each regulation submitted for publication during this *Register* year.

Certifications Index

L - 33

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year. Additionally, this index includes information regarding regulations that had letters that stated a regulation shall be amended within 18 months.

Technical Amendment Index

L - 47

A list of administrative regulations that have had technical, non-substantive amendments made during this *Register* year. 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*; however, they are usually available for a short time on the Legislative Research Commission's Web site.

Subject Index

L - 49

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	45 Ky.R. Page No.	Effective Date	Regulation Number	45 Ky.R. Page No.	Effective Date
REGISTER YEAR 45					
The administrative regulations listed under VOLUME 45 are those administrative regulations that were originally published in Volume year's) issues of the <i>Administrative Register of Kentucky</i> but had not yet gone into effect when <i>Register</i> year 46 began.					
SYMBOL KEY:			016 KAR 003:090	2250	
*	Statement of Consideration not filed by deadline		As Amended	3387	7-5-2019
**	Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))		016 KAR 8:030		
***	Withdrawn before being printed in Register		Amended	3240	See 46 Ky.R.
IJC	Interim Joint Committee		031 KAR 004:120		
(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.		Amended	2152	
			101 KAR 002:034		
			Amended	2955	
			As Amended	3390	7-5-2019
			101 KAR 002:180		
			Amended	3443	See 46 Ky.R.
EMERGENCY ADMINISTRATIVE REGULATIONS			101 KAR 002:190	3592	See 46 Ky.R.
(Notes: Emergency regulations filed on or before 7/15/2019 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.)			101 KAR 003:045		
Emergency regulations filed after 7/15/2019 expire 270 days from the date filed; or 270 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)			Amended	2960	
			As Amended	3394	7-5-2019
			102 KAR 001:060		
			Amended	2404	
			As Amended	3398	7-5-2019
			103 KAR 015:050		
			Amended	3445	See 46 Ky.R.
			103 KAR 015:060		
			Repealed	3594	9-6-2019
009 KAR 001:010E	3382	5-15-2019	103 KAR 015:061(r)	3594	9-6-2019
Replaced	405	9-6-2019	103 KAR 017:120		
009 KAR 001:040E	3383	5-15-2019	Repealed	3595	9-6-2019
Replaced	405	9-6-2019	103 KAR 017:121(r)	3595	9-6-2019
200 KAR 003:020E	2304	1-4-2019	200 KAR 003:020	2528	
Replaced	28	8-2-2019	Am Comments	3190	See 46 Ky.R.
500 KAR 015:010E	3011	4-5-2019	200 KAR 014:200	3596	11-1-2019
Expired		10-2-2019	201 KAR 014:201(r)	3596	11-1-2019
601 KAR 002:030E	2310	1-8-2019	201 KAR 001:290	2802	
Withdrawn		8-7-2019	As Amended	3399	7-5-2019
803 KAR 025:270E	2316	12-27-2018	201 KAR 001:300		
Withdrawn		6-21-2019	Amended	2964	
907 KAR 001:604E	3015	3-15-2019	As Amended	3401	7-5-2019
Replaced	937	10-4-2019	201 KAR 001:310	2804	
921 KAR 002:015E	2322	12-28-2018	As Amended	3403	7-5-2019
Replaced	3232	7-5-2019	201 KAR 002:010		
921 KAR 002:055E	1501	11-1-2018	Amended	3447	See 46 Ky.R.
Replaced	2925	5-31-2019	201 KAR 002:090		
922 KAR 001:310E	3019	4-1-2019	Amended	3449	See 46 Ky.R.
Replaced	521	9-9-2019	201 KAR 002:095		
922 KAR 001:350E	3033	4-1-2019	Amended	3450	See 46 Ky.R.
Replaced	535	9-9-2019	201 KAR 002:100		
922 KAR 001:495E	3042	4-1-2019	Amended	3451	See 46 Ky.R.
Replaced	944	9-9-2019	201 KAR 002:116		
			Amended	3453	See 46 Ky.R.
ORDINARY ADMINISTRATIVE REGULATIONS:			201 KAR 002:165		
009 KAR 001:010			Amended	3454	11-1-2019
Amended	3439	See 46 Ky.R.	201 KAR 002:225		
009 KAR 001:040			Amended	3456	See 46 Ky.R.
Amended	3440	See 46 Ky.R.	201 KAR 002:240		
011 KAR 005:145			Amended	3458	See 46 Ky.R.
Amended	3239	8-2-2019	201 KAR 002:270		
016 KAR 003:010			Amended	3460	See 46 Ky.R.
Repealed	3387	7-5-2019	201 KAR 002:310		
016 KAR 003:011(r)	2801		Amended	3461	
As Amended	3387	7-5-2019	Withdrawn		8-6-2019
016 KAR 003:020			201 KAR 002:340		
Repealed	3387	7-5-2019	Amended	3462	See 46 Ky.R.
016 KAR 003:030			201 KAR 006:030		
Repealed	3387	7-5-2019	Amended	3464	See 46 Ky.R.
016 KAR 003:040			201 KAR 006:040		
Repealed	3387	7-5-2019	Amended	3466	See 46 Ky.R.
016 KAR 003:050			201 KAR 008:581		
Repealed	3387	7-5-2019	Amended	3244	9-11-2019

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
201 KAR 013:040			302 KAR 016:040		
Amended	3246	See 46 Ky.R.	Amended	3504	See 46 Ky.R.
201 KAR 013:050			302 KAR 016:070		
Amended	3249	8-19-2019	Amended	3506	8-22-2019
201 KAR 013:055			302 KAR 016:091		
Amended	3251	See 46 Ky.R.	Amended	3507	8-22-2019
201 KAR 013:060			302 KAR 016:101		
Amended	3253	See 46 Ky.R.	Amended	3509	8-22-2019
201 KAR 020:370			302 KAR 016:111		
Amended	3469	See 46 Ky.R.	Amended	3510	See 46 Ky.R.
201 KAR 020:506			302 KAR 016:121		
Amended	3471	8-19-2019	Amended	3511	See 46 Ky.R.
201 KAR 022:135			302 KAR 016:131		
Amended	3258	7-19-2019	Amended	3513	See 46 Ky.R.
201 KAR 023:150			302 KAR 078:020		
Withdrawn	1459	7-30-2019	Repealed	3598	9-6-2019
201 KAR 025:062(r)			302 KAR 078:021(r)	3598	9-6-2019
Withdrawn	3597	7-2-2019	302 KAR 101:010	3599	See 46 Ky.R.
201 KAR 025:090			401 KAR 5:010		
Amended	3472	See 46 Ky.R.	Amended	3514	11-1-2019
201 KAR 041:020			401 KAR 008:030		
Amended	3475	9-6-2019	Amended	3516	11-1-2019
201 KAR 041:030			401 KAR 008:050		
Amended	3477	See 46 Ky.R.	Amended	3519	11-1-2019
201 KAR 041:040			401 KAR 011:001		
Amended	3478	See 46 Ky.R.	Amended	3522	See 46 Ky.R.
201 KAR 041:060			401 KAR 011:030		
Amended	3480	9-6-2019	Amended	3524	See 46 Ky.R.
201 KAR 041:065			401 KAR 011:040		
Amended	3482	See 46 Ky.R.	Amended	3527	See 46 Ky.R.
201 KAR 041:070			401 KAR 011:050		
Amended	3483	See 46 Ky.R.	Amended	3531	See 46 Ky.R.
201 KAR 041:080			401 KAR 011:060		
Amended	3486	See 46 Ky.R.	Amended	3535	See 46 Ky.R.
201 KAR 046:010			405 KAR 010:001		
Amended	2967		Amended	2979	See 46 Ky.R.
As Amended	3403	7-5-2019	405 KAR 010:015		
201 KAR 046:020			Amended	2982	See 46 Ky.R.
Amended	2970	7-5-2019	500 KAR 009:011(r)	3354	
201 KAR 046:030			Withdrawn		3-4-2020
Amended	2971	7-5-2019	500 KAR 0015:010	3355	
201 KAR 046:040			601 KAR 002:030		
Amended	2972	7-5-2019	Withdrawn		8-7-2019
201 KAR 046:045			704 KAR 003:303		
Amended	2975	7-5-2019	Amended	2987	
201 KAR 046:081			As Amended	3410	7-5-2019
Amended	2976	7-5-2019	704 KAR 008:060	2810	
202 KAR 003:010			Am Comments	3193	
Amended	3259	9-6-2019	As Amended	3410	7-5-2019
202 KAR 007:520			803 KAR 002:180		
Amended	2760		Amended	2989	6-7-2019
As Amended	3405	7-5-2019	803 KAR 025:270	2534	
202 KAR 007:560			Am Comments	2928	See 46 Ky.R.
Amended	3489	See 46 Ky.R.	804 KAR 007:020		
202 KAR 007:575			Amended	3262	See 46 Ky.R.
As Amended	2805	7-5-2019	804 KAR 007:030		
301 KAR 002:030			Repealed	3360	8-2-2019
Amended	3260	See 46 Ky.R.	804 KAR 007:031(r)	3360	8-2-2019
301 KAR 002:221			805 KAR 003:100		
Amended	3491	8-20-2019	Amended	2991	
301 KAR 002:222			As Amended	3410	7-5-2019
Amended	3493	8-20-2019	805 KAR 003:110		
301 KAR 002:300			Amended	3538	See 46 Ky.R.
Amended	3498	8-20-2019	806 KAR 009:001		
301 KAR 003:090			Amended	3264	
Repealed	2996	7-5-2019	Withdrawn		9-3-2019
301 KAR 003:091(r)			806 KAR 009:020		
302 KAR 016:010			Amended	3265	See 46 Ky.R.
Amended	3502	See 46 Ky.R.	806 KAR 009:030		
302 KAR 016:020			Amended	3539	See 46 Ky.R.
Amended	3503	See 46 Ky.R.	806 KAR 009:060		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
Repealed	3361	1-3-2020	902 KAR 045:070		
806 KAR 009:061(r)	3361	1-3-2020	Amended	3304	See 46 Ky.R.
806 KAR 009:070			902 KAR 045:075		
Amended	3267		Amended	3314	9-9-2019
Withdrawn		9-3-2019	902 KAR 045:110		
806 KAR 009:110			Amended	3568	
Amended	3541	See 46 Ky.R.	Withdrawn		6-28-2019
806 KAR 009:190			902 KAR 045:120		
Amended	3542	See 46 Ky.R.	Amended	3571	8-19-2019
806 KAR 009:200			902 KAR 050:100		
Amended	3543	See 46 Ky.R.	Repealed	3364	7-19-2019
806 KAR 009:310			902 KAR 050:101(r)	3364	7-19-2019
Amended	3269	See 46 Ky.R.	902 KAR 050:110		
806 KAR 009:320			Amended	3316	7-19-2019
Repealed	3362	1-3-2020	907 KAR 001:022		
806 KAR 009:321(r)	3362	1-3-2020	Amended	2784	
806 KAR 009:340			Am Comments	3419	8-2-2019
Repealed	3600	1-3-2020	907 KAR 001:330		
806 KAR 009:341(r)	3600	1-3-2020	Amended	2790	8-2-2019
806 KAR 009:350			907 KAR 001:340		
Amended	3545	See 46 Ky.R.	Amended	2793	8-2-2019
806 KAR 010:030			907 KAR 001:441(r)	2813	8-2-2019
Amended	1824		907 KAR 001:436		
Am Comments	2716		Repealed	2813	8-2-2019
As Amended	3411	7-5-2019	907 KAR 001:604		
806 KAR 010:050			Amended	3318	10-4-2019
Repealed	3363	8-2-2019	907 KAR 001:755		
806 KAR 010:051(r)	3363	8-2-2019	Amended	2796	8-2-2019
806 KAR 015:080			907 KAR 005:005		
Repealed	3601	10-4-2019	Amended	2496	
806 KAR 015:081(r)	3601	10-4-2019	As Amended	3412	7-5-2019
806 KAR 047:010			908 KAR 001:340		
Amended	2993	See 46 Ky.R.	Repealed	2538	8-19-2019
806 KAR 047:020			908 KAR 001:341(r)	2538	8-19-2019
Repealed	2997	9-6-2019	908 KAR 001:370		
806 KAR 047:021(r)	2997	9-6-2019	Amended	2500	
806 KAR 047:030			Am Comments	3195	See 46 Ky.R.
Repealed	2997	9-6-2019	908 KAR 001:372	2539	
807 KAR 005:056			Am Comments	3215	See 46 Ky.R.
Amended	3272	See 46 Ky.R.	908 KAR 001:374	2546	
808 KAR 001:180	2266		Am Comments	3222	See 46 Ky.R.
Withdrawn		9-10-2019	910 KAR 002:020		
815 KAR 007:120			Amended	3322	See 46 Ky.R.
Amended	3274	8-2-2019	910 KAR 002:040		
815 KAR 007:125			Amended	3573	See 46 Ky.R.
Amended	3277	8-2-2019	911 KAR 001:010	2814	
831 KAR 001:010			Am Comments	3425	See 46 Ky.R.
Amended	3546	See 46 Ky.R.	911 KAR 001:020	2819	
831 KAR 001:020			Am Comments	3430	7-19-2019
Amended	3549	9-6-2019	911 KAR 001:060	2823	
831 KAR 001:030			Am Comments	3434	7-19-2019
Amended	3551	See 46 Ky.R.	911 KAR 001:070		
902 KAR 002:070			Repealed	2828	7-19-2019
Amended	3279	See 46 Ky.R.	911 KAR 001:071(r)	2828	7-19-2019
902 KAR 004:030			911 KAR 001:080		
Amended	3553	8-19-2019	Repealed	2828	7-19-2019
902 KAR 004:035			921 KAR 001:380		
Amended	3557	8-19-2019	Amended	3583	See 46 Ky.R.
902 KAR 007:010			921 KAR 002:015		
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902 KAR 009:010			Am Comments	3232	7-5-2019
Amended	3564	See 46 Ky.R.	922 KAR 001:310		
902 KAR 015:010			Amended	3326	See 46 Ky.R.
Amended	3281	See 46 Ky.R.	922 KAR 001:350		
902 KAR 020:036			Amended	3340	See 46 Ky.R.
Amended	3286	See 46 Ky.R.	922 KAR 001:470		
902 KAR 020:111			Amended	3587	See 46 Ky.R.
Amended	2781		922 KAR 001:495		
Am Comments	3416	7-19-2019	Amended	3350	See 46 Ky.R.
902 KAR 045:065			922 KAR 001:510		
Amended	3294	See 46 Ky.R.	Amended	3589	See 46 Ky.R.

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REGISTER YEAR 46					
EMERGENCY ADMINISTRATIVE REGULATIONS			907 KAR 015:005E	356	6-28-2019
(Notes: Emergency regulations filed on or before 7/15/2019 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.)			Replaced	1875	12-9-2019
Emergency regulations filed after 7/15/2019 expire 270 days from the date filed; or 270 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)			907 KAR 015:010E	359	6-28-2019
			Replaced	1878	12-9-2019
			907 KAR 015:015E	371	6-28-2019
			Replaced	1888	12-9-2019
			907 KAR 015:020E	374	6-28-2019
			Replaced	1889	12-9-2019
			907 KAR 015:022E	385	6-28-2019
			Replaced	1890	12-9-2019
			907 KAR 015:025E	396	6-28-2019
			Replaced	1909	12-9-2019
			921 KAR 002:015E	2216	12-27-2019
			921 KAR 003:025E	2784	4-15-2020
			922 KAR 001:320E	400	6-28-2019
			Replaced	1573	12-9-2019
			922 KAR 001:330E	855	8-14-2019
			Replaced	2093	2-27-2020
			922 KAR 001:490E	2875	5-12-2020
<hr/>					
			ORDINARY ADMINISTRATIVE REGULATIONS		
010 KAR 001:011E	2863	4-22-2020	009 KAR 001:010		See 45 Ky.R.
030 KAR 008:005E	2206	1-3-2020	As Amended	405	9-6-2019
031 KAR 004:190E	2865	5-5-2020	009 KAR 001:040		See 45 Ky.R.
101 KAR 002:120E	1771	10-22-2019	As Amended	405	9-6-2019
101 KAR 002:210E	1068	09-13-2019	010 KAR 001:011	3059	
Replaced	1276	4-1-2020	013 KAR 001:020		
105 KAR 001:149E	1775	11-15-2019	Amended	550	
105 KAR 001:390E	6	6-12-2019	Am Comments	1430	
Replaced	883	10-4-2019	As Amended	1791	1-3-2020
201 KAR 020:225E	2769	3-31-2020	013 KAR 001:050		
201 KAR 020:470E	2771	3-31-2020	Amended	2977	
201 KAR 032:110E	2776	3-30-2020	013 KAR 004:010		
300 KAR 001:010E	1070	8-23-2019	Amended	1913	
Replaced	2038	4-1-2020	Am Comments	2458	
301 KAR 001:152E	9	5-24-2019	As Amended	2597	
Replaced	150	9-10-2019	016 KAR 005:020		
401 KAR 006:001E	311	7-11-2019	Amended	2487	
Replaced	1465	1-3-2020	As Amended	2880	
401 KAR 006:310E	313	7-11-2019	016 KAR 006:030		
Replaced	1468	1-3-2020	Repealed	1376	4-1-2020
401 KAR 006:320E	323	7-11-2019	016 KAR 006:031(r)	1376	4-1-2020
Replaced	1477	1-3-2020	016 KAR 008:030		
401 KAR 006:350E	327	7-11-2019	As Amended	26	8-2-2019
Replaced	1481	1-3-2020	016 KAR 009:060		
501 KAR 001:040E	1780	10-21-2019	Amended	2100	
501 KAR 001:071E	1786	10-21-2019	As Amended	2598	
601 KAR 002:030E	849	8-7-2019	016 KAR 009:071(r)	2160	
Expired		5-4-2020	017 KAR 001:030	3061	
787 KAR 001:350E	2867	5-1-2020	030 KAR 008:005	2349	
800 KAR 001:010E	2872	5-12-2020	Am Comments	2963	
803 KAR 025:271E	333	6-21-2019	032 KAR 001:060		
Withdrawn		7-11-2019	Repealed	281	10-4-2019
810 KAR 002:090E	2779	3-20-2020	032 KAR 001:061(r)	281	10-4-2019
895 KAR 001:002E	2211	12-27-2019	045 KAR 001:050		
900 KAR 006:075E	2213	1-2-2020	Amended	998	
902 KAR 020:430E	336	6-28-2019	As Amended	1799	3-3-2020
Replaced	1389	12-9-2019	101 KAR 001:325	2290	
902 KAR 030:010E	2780	3-23-2020	101 KAR 002:102		
902 KAR 045:090E	12	6-14-2019	Amended	558	
Replaced	264	9-9-2019	As Amended	1080	11-1-2019
907 KAR 001:604E	2593	3-13-2020	101 KAR 002:120		
907 KAR 003:170E	18	6-14-2019	Amended	1915	
Replaced	1423	12-6-2019	As Amended	2686	
907 KAR 003:300	2782	3-19-2020	101 KAR 002:180		See 45 Ky.R.
907 KAR 010:830E	347	6-19-2019	As Amended	407	9-6-2019
Replaced	1154	11-1-2019	101 KAR 002:190		See 45 Ky.R.
907 KAR 010:840E	1787	10-30-2019			

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101 KAR 002:230			103 KAR 016:250		
Amended	44	10-4-2019	Amended	60	
101 KAR 003:015			As Amended	868	10-4-2019
Amended	564	11-1-2019	103 KAR 016:400	286	
102 KAR 001:032	778	12-6-2019	As Amended	875	10-4-2019
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102 KAR 001:035			Amended	1593	5-5-2020
Amended	1580		103 KAR 025:050		
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102 KAR 001:036			As Amended	2023	4-1-2020
Amended	1581	5-5-2020	103 KAR 025:060		
102 KAR 001:037			Amended	1278	
Amended	1583		As Amended	2023	4-1-2020
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102 KAR 001:100			Amended	570	
Amended	1584		As Amended	1084	11-1-2019
As Amended	2223	5-5-2020	103 KAR 026:010		
102 KAR 001:125			Amended	67	10-4-2019
Amended	1585		103 KAR 026:030		
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103 KAR 001:010			103 KAR 026:070		
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Amended	1588		As Amended	1087	11-1-2019
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103 KAR 002:005			Amended	1282	
Amended	50		103 KAR 026:120		
Withdrawn		7-24-2019	Amended	1920	
Amended	2104		As Amended	2389	
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103 KAR 002:030			Amended	1922	
Amended	51	10-4-2019	As Amended	2390	
103 KAR 005:150			103 KAR 027:080		
Repealed	282	10-4-2019	Amended	1284	
103 KAR 005:151(r)	282	10-4-2019	103 KAR 027:100		
103 KAR 005:160			Amended	1285	
Amended	53	10-4-2019	103 KAR 027:120		
103 KAR 007:030			Amended	1923	
Repealed	283	10-4-2019	As Amended	2391	
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Repealed	284	10-4-2019	Amended	69	10-4-2019
103 KAR 008:011(r)	284	10-4-2019	103 KAR 027:180		
103 KAR 008:110			Amended	577	
Amended	54	10-4-2019	As Amended	1088	11-1-2019
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Amended	55		Amended	1287	
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103 KAR 008:141(r)	285	10-4-2019	As Amended	1089	11-1-2019
103 KAR 008:150			103 KAR 030:170		
Repealed	285	10-4-2019	Amended	581	
103 KAR 008:160			As Amended	1091	11-1-2019
Amended	1591		As Amended	2602	
*Withdrawn		1-15-2020	103 KAR 028:090		
103 KAR 008:170	1718		Amended	1288	
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103 KAR 015:050		See 45 Ky.R.	Repealed	289	10-4-2019
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As Amended	2025	4-1-2020	As Amended	1802	3-3-2020
103 KAR 031:020			201 KAR 002:010		See 45 Ky.R.
Amended	1595	5-5-2020	As Amended	410	8-19-2019
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103 KAR 031:080			201 KAR 002:090		See 45 Ky.R.
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Amended	1598	5-5-2020	201 KAR 002:100		See 45 Ky.R.
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103 KAR 031:200			201 KAR 002:175	2683	
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Amended	1602	5-5-2020	201 KAR 008:540		
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Amended	1603	5-5-2020	Am Comments	2646	
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Amended	1604	5-5-2020	201 KAR 009:270	2294	
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103 KAR 043:010			Amended	1607	5-5-2020
Amended	1606	5-5-2020	201 KAR 010:080		
103 KAR 043:050			Amended	1608	
Repealed	1719	5-5-2020	As Amended	2228	5-5-2020
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105 KAR 001:390			201 KAR 011:062		
Amended	76		Repealed	1805	12-16-2019
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201 KAR 011:115			201 KAR 011:461(r)	290	12-16-2019
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Amended	582		As Amended	1091	11-1-2019
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Amended	588		As Amended	2894	
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Repealed	1805	12-16-2019	201 KAR 015:120		
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Repealed	1805	12-16-2019	As Amended	1102	11-1-2019
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Repealed	1805	12-16-2019	*Withdrawn	*	9-13-2019
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Repealed	1805	12-16-2019	201 KAR 016:212	788	
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Repealed	1805	12-16-2019	201 KAR 016:214	790	
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Withdrawn	*	9-13-2019	201 KAR 020:370		See 45 Ky.R. 8-19-2019
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Withdrawn	*	9-13-2019	201 KAR 020:411		
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Withdrawn	*	9-13-2019	201 KAR 020:620	2166	
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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.

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156.557	704 KAR 003:370		102 KAR 001:037
156.800	704 KAR 003:370	161.420	102 KAR 001:032
156.802	780 KAR 001:011	161.440	102 KAR 001:135
	780 KAR 002:040	161.500	102 KAR 001:035
	780 KAR 002:060	161.540	102 KAR 001:032
156.814	780 KAR 001:011		702 KAR 003:130
156.852	780 KAR 001:011	161.545	102 KAR 001:036
157	922 KAR 002:090	161.560	102 KAR 001:125
157.320	702 KAR 007:125		702 KAR 003:130
157.350	702 KAR 007:125	161.580	102 KAR 001:135
157.360	702 KAR 007:125	161.605	102 KAR 001:032
158.030	702 KAR 007:125		102 KAR 001:035
	922 KAR 002:090	161.675	102 KAR 001:100
	922 KAR 002:100	161.677	102 KAR 001:032
158.031	703 KAR 005:140	161.700	102 KAR 001:032
158.070	701 KAR 008:020	161.705	102 KAR 001:135
	702 KAR 007:125	161.740	704 KAR 003:370
158.100	702 KAR 007:125	161.770	701 KAR 005:090
158.150	780 KAR 002:060	161.790	701 KAR 005:090
158.240	702 KAR 007:125	161.5465	102 KAR 001:036
158.1411	704 KAR 008:080	162.062	815 KAR 020:191
158.1413	704 KAR 008:080	163.500	920 KAR 001:070
158.444	780 KAR 002:060	163.506	920 KAR 001:070
158.645	703 KAR 005:270	164.020	013 KAR 001:020
	704 KAR 008:080		013 KAR 001:050
158.6451	703 KAR 005:240		013 KAR 004:010
	703 KAR 005:270	164.772	201 KAR 020:225E
	704 KAR 003:303	164.785	013 KAR 001:050
	704 KAR 008:080	164.945	013 KAR 001:020
158.6453	703 KAR 005:140		013 KAR 001:050
	703 KAR 005:240	164.946	013 KAR 001:020
	703 KAR 005:270		013 KAR 001:050
	703 KAR 005:280		013 KAR 004:010
	704 KAR 003:303	164.947	013 KAR 001:020
	704 KAR 008:080		013 KAR 001:050
158.6455	703 KAR 005:240		013 KAR 004:010
	703 KAR 005:270	164.992	013 KAR 001:020
	703 KAR 005:280		013 KAR 001:050
158.649	701 KAR 008:020		013 KAR 004:010
158.782	703 KAR 005:280	165A.320	013 KAR 001:020
159.010	702 KAR 007:125		013 KAR 004:010
159.030	702 KAR 007:125	165A.450	013 KAR 004:010
159.035	702 KAR 007:125	171.250	725 KAR 002:060
159.140	702 KAR 007:125		725 KAR 002:070
	922 KAR 001:330	171.260	725 KAR 002:060
159.170	702 KAR 007:125		725 KAR 002:070
160	702 KAR 003:130	171.270	725 KAR 002:060
160.1590	701 KAR 008:020		725 KAR 002:070
160.1591	701 KAR 008:020	176.050	603 KAR 005:150
160.1592	701 KAR 008:020	176.430	401 KAR 010:030
160.1593	701 KAR 008:020	177.047	603 KAR 005:150
160.1594	701 KAR 008:020	177.103	603 KAR 005:150
160.1595	701 KAR 008:020	177.106	603 KAR 005:150
160.1596	701 KAR 008:020	186.010	601 KAR 002:030E

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186.018	601 KAR 009:130		501 KAR 006:140
186.020	922 KAR 002:100	196.035	501 KAR 006:280
186.050	922 KAR 002:100	196.700 – 196.705	500 KAR 010:050
186.053	601 KAR 009:130	196.700 – 196.736	500 KAR 010:001
186.162	601 KAR 009:130		500 KAR 010:020
186.172	601 KAR 009:130		500 KAR 010:030
186.174	601 KAR 009:130	197	500 KAR 010:040
186.411	601 KAR 013:090		501 KAR 006:020
	601 KAR 013:100		501 KAR 006:060
186.440	601 KAR 002:030E		501 KAR 006:110
	601 KAR 013:100		501 KAR 006:120
186.442	601 KAR 002:030E	197.020	501 KAR 006:140
186.444	601 KAR 013:090	197.105	501 KAR 006:280
	601 KAR 013:100	198B.050	500 KAR 010:050
186.480	601 KAR 002:030E	198B.260	815 KAR 020:195
186.531	601 KAR 002:030E		902 KAR 020:160
186.560	601 KAR 002:030E		902 KAR 020:280
186.570	601 KAR 002:030E	199.011	902 KAR 020:430
	601 KAR 013:090		922 KAR 001:320
	601 KAR 013:100		922 KAR 001:490
186A.060	601 KAR 009:130		922 KAR 001:560
186A.070	601 KAR 009:130		922 KAR 001:565
186A.120	601 KAR 009:130		922 KAR 002:090
189.010	103 KAR 027:100	199.462	922 KAR 002:100
189.125	922 KAR 002:100		922 KAR 001:490
189A.005	601 KAR 002:030E	199.470 - 199.590	922 KAR 001:565
189A.010	601 KAR 002:030E	199.480	922 KAR 001:565
189A.040	601 KAR 002:030E	199.505	922 KAR 001:560
189A.070	601 KAR 002:030E	199.555	101 KAR 002:120
189A.085	601 KAR 002:030E		922 KAR 001:320
189A.090	601 KAR 002:030E	199.557	922 KAR 001:320
189A.103	601 KAR 002:030E	199.892	922 KAR 002:090
189A.105	601 KAR 002:030E	199.894	922 KAR 002:090
189A.107	601 KAR 002:030E		922 KAR 002:100
189A.200	601 KAR 002:030E	199.895	922 KAR 002:090
189A.240	601 KAR 002:030E		922 KAR 002:100
189A.250	601 KAR 002:030E	199.8951	922 KAR 002:100
189A.340	601 KAR 002:030E	199.896 - 199.898	922 KAR 002:090
189A.345	601 KAR 002:030E		922 KAR 002:100
189A.400	601 KAR 002:030E	199.8982	922 KAR 002:100
189A.410	601 KAR 002:030E	199.990	922 KAR 001:560
189A.420	601 KAR 002:030E	200.080-120	505 KAR 001:120
189A.440	601 KAR 002:030E		505 KAR 001:160
189A.500	601 KAR 002:030E	200.503	902 KAR 020:430
189.540	702 KAR 005:080		902 KAR 020:440
194A	921 KAR 002:015	200.650 – 200.676	902 KAR 030:010E
194A.005	920 KAR 001:070	202A.011	921 KAR 002:015
	922 KAR 001:320		922 KAR 001:330
	922 KAR 001:330	204A.241	902 KAR 020:160
	922 KAR 001:565	205.2005	921 KAR 003:025
194A.025	907 KAR 015:005	205.211	922 KAR 001:565
194A.030	900 KAR 005:020	205.245	921 KAR 002:015
	920 KAR 001:070	205.510	902 KAR 020:430
	922 KAR 001:320		907 KAR 003:170
194A.050	900 KAR 005:020		907 KAR 003:300
	902 KAR 008:110		907 KAR 010:830
	902 KAR 045:065		907 KAR 015:005
	902 KAR 045:070	205.520	895 KAR 001:002E
	922 KAR 001:330		902 KAR 021:020
	922 KAR 001:565		907 KAR 015:010
	922 KAR 002:100		907 KAR 015:015
194A.060	907 KAR 003:170		907 KAR 015:020
	907 KAR 003:300		907 KAR 015:022
	920 KAR 001:070		907 KAR 015:025
	922 KAR 001:560		907 KAR 015:070
	922 KAR 008:010		907 KAR 015:080
194A.125	907 KAR 003:170	205.559	907 KAR 003:170
194A.540	201 KAR 020:225E		907 KAR 003:300
	201 KAR 020:110	205.560	806 KAR 017:480
196	501 KAR 006:020		907 KAR 001:604
	501 KAR 006:060		907 KAR 003:170
	501 KAR 006:110		907 KAR 003:300
	501 KAR 006:120	205.565	907 KAR 010:830

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	907 KAR 010:840		902 KAR 008:110
205.622	907 KAR 015:080		902 KAR 008:120
205.637	907 KAR 010:830		902 KAR 008:140
	907 KAR 010:840	231.230	902 KAR 008:140
205.638	907 KAR 010:830	212.850	902 KAR 008:080
	907 KAR 010:840	212.870	902 KAR 008:040
205.639	907 KAR 010:830		902 KAR 008:060
	907 KAR 010:840		902 KAR 008:070
205.6312	907 KAR 001:604		902 KAR 008:080
205.640	907 KAR 010:830		902 KAR 008:090
	907 KAR 010:840		902 KAR 008:096
205.641	907 KAR 010:830		902 KAR 008:100
205.6405	907 KAR 010:840		902 KAR 008:110
205.6406	907 KAR 010:840		902 KAR 008:120
205.6407	907 KAR 010:840		902 KAR 008:140
205.6408	907 KAR 010:840	214.010	902 KAR 002:065
205.6485	907 KAR 001:604		922 KAR 002:090
205.712	601 KAR 002:030E		922 KAR 002:100
205.8451	907 KAR 001:604	214.036	922 KAR 001:330
	907 KAR 015:005		922 KAR 002:090
209.020	921 KAR 002:015		922 KAR 002:100
	922 KAR 001:320	214.185	922 KAR 008:010
209.030	922 KAR 008:010	214.540	902 KAR 021:020
209.550	902 KAR 002:065	214.542	902 KAR 021:020
209.552	902 KAR 002:065	214.543	902 KAR 021:020
209A.020	922 KAR 001:320	214.625	922 KAR 008:010
210.005	902 KAR 020:430	216A.060	201 KAR 006:100
	902 KAR 020:440	216.380	907 KAR 010:830
	902 KAR 020:160		907 KAR 010:840
210.370	922 KAR 008:010	216.510	900 KAR 002:050
211.005	902 KAR 045:065		902 KAR 002:065
	902 KAR 045:070	216.515	902 KAR 002:065
211.015	902 KAR 008:040	216.525	900 KAR 002:050
	902 KAR 045:065	216.530	902 KAR 002:065
	902 KAR 045:070		921 KAR 002:015
211.025	902 KAR 045:065	216.555	900 KAR 002:050
	902 KAR 045:070	216.557	900 KAR 002:050
211.090	902 KAR 002:065		921 KAR 002:015
	902 KAR 008:096	216.560	900 KAR 002:050
	902 KAR 008:100	216.750	921 KAR 002:015
211.170	902 KAR 008:040	216.765	921 KAR 002:015
	902 KAR 008:060	216.875	902 KAR 020:280
	902 KAR 008:070	216.880	902 KAR 020:280
	902 KAR 008:080	216.885	902 KAR 020:280
	902 KAR 008:090	216B	921 KAR 002:015
	902 KAR 008:096	216B.010	900 KAR 005:020
	902 KAR 008:100		900 KAR 006:075
	902 KAR 008:110		902 KAR 020:160
	902 KAR 008:120	216B.015	900 KAR 002:050
	902 KAR 008:140		900 KAR 006:075
211.180	902 KAR 002:065		902 KAR 020:160
211.600-211.608	922 KAR 008:010	216B.020	902 KAR 020:370
211.684	922 KAR 001:330	216B.040	900 KAR 005:020
	922 KAR 001:490		900 KAR 006:075
211.760	902 KAR 045:065	216B.042	902 KAR 020:450
211.892	805 KAR 001:060	216B.050	902 KAR 020:430
211.893	805 KAR 001:060	216B.062	900 KAR 006:075
211.1751	902 KAR 008:040	216B.090	900 KAR 006:075
	902 KAR 008:060	216B.095	900 KAR 006:075
	902 KAR 008:070	216B.105	902 KAR 020:160
	902 KAR 008:090		902 KAR 020:430
	902 KAR 008:096	216B.115	900 KAR 006:075
	902 KAR 008:100	216B.155	806 KAR 017:480
211.1752	902 KAR 008:060	216B.400	201 KAR 020:411
211.1755	902 KAR 008:060	216B.455	900 KAR 006:075
	902 KAR 008:090	216B.990	900 KAR 006:075
	902 KAR 008:110		902 KAR 020:160
212.040	902 KAR 008:080	217.005 – 217.215	902 KAR 045:090
212.170	902 KAR 008:040	217.290	902 KAR 045:090
	902 KAR 008:060	217.992	902 KAR 045:090
	902 KAR 008:070	217B	302 KAR 031:040
	902 KAR 008:090		302 KAR 050:020
	902 KAR 008:096		302 KAR 050:055
	902 KAR 008:100		302 KAR 050:060

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217B.555	902 KAR 045:090	224.60-100 – 224.60-160	401 KAR 006:350
217B.990	902 KAR 045:090	224.70-100 – 224.70-140	401 KAR 010:001
217C.010	902 KAR 050:005		401 KAR 010:026
217C.070	902 KAR 050:003		401 KAR 010:029
218A.172	201 KAR 020:057		401 KAR 010:030
218A.182	902 KAR 055:130		401 KAR 010:031
218A.202	902 KAR 020:160	224.71-100 – 224.71-145	401 KAR 010:001
218A.205	201 KAR 002:020		401 KAR 010:026
	201 KAR 020:050		401 KAR 010:029
	201 KAR 020:057		401 KAR 010:030
	201 KAR 008:540		401 KAR 010:031
223.170	401 KAR 006:211	224.73-100 – 224.30-120	401 KAR 010:001
223.180	401 KAR 006:211		401 KAR 010:026
223.190	401 KAR 006:211		401 KAR 010:029
223.210	401 KAR 006:211		401 KAR 010:030
223.400	401 KAR 006:001		401 KAR 010:031
223.400-223.460	401 KAR 006:001	224.73-100 – 224.30-120	416 KAR 001:010
	401 KAR 006:310	224.99-010	401 KAR 058:005
	401 KAR 006:320	227.550	103 KAR 027:100
	401 KAR 006:350	230	810 KAR 001:001
223.991	401 KAR 006:001		810 KAR 002:001
	401 KAR 006:310	230.210	810 KAR 005:001
	401 KAR 006:320	230.210 – 230.375	811 KAR 001:250
	401 KAR 006:350	230.215	810 KAR 002:090
224	401 KAR 005:091		810 KAR 004:030
224.071	405 KAR 007:050		810 KAR 005:001
224.01-300	103 KAR 030:261		810 KAR 005:060
224.1-310	103 KAR 030:261		810 KAR 005:070
224.1-010	401 KAR 010:001		810 KAR 007:040
	401 KAR 010:026		810 KAR 008:010
	401 KAR 010:029		810 KAR 008:020
	401 KAR 010:030		810 KAR 008:070
	401 KAR 010:031	230.225	810 KAR 002:090
224.1-300	103 KAR 008:170		810 KAR 008:010
224.1-310	103 KAR 008:170		810 KAR 008:020
224.1-400	401 KAR 010:001		810 KAR 008:070
	401 KAR 010:026	230.240	810 KAR 004:030
	401 KAR 010:029		810 KAR 005:070
	401 KAR 010:030		810 KAR 007:040
	401 KAR 010:031		810 KAR 008:010
224.1-405	401 KAR 006:350		810 KAR 008:020
224.10-010	401 KAR 006:320		810 KAR 008:070
224.10-100	401 KAR 006:320	230.260	810 KAR 002:090
	401 KAR 058:005		810 KAR 005:001
	401 KAR 052:100		810 KAR 005:060
224.10-110	401 KAR 006:211		810 KAR 008:020
224.10-410	400 KAR 001:110	230.265	810 KAR 008:010
224.10-410 – 224.10-470	401 KAR 006:320		810 KAR 008:020
224.16-050	401 KAR 010:001		810 KAR 008:070
	401 KAR 010:026	230.280	810 KAR 005:070
	401 KAR 010:029	230.290	810 KAR 004:030
	401 KAR 010:030		810 KAR 005:070
	401 KAR 010:031		810 KAR 008:010
224.16-070	401 KAR 010:001		810 KAR 008:020
	401 KAR 010:026		810 KAR 008:070
	401 KAR 010:029	230.300	810 KAR 005:070
	401 KAR 010:030		810 KAR 008:030
	401 KAR 010:031	230.310	810 KAR 004:030
224.20	401 KAR 063:010		810 KAR 005:070
224.10-100	401 KAR 063:010		810 KAR 008:030
224.20-100	401 KAR 051:010	230.320	810 KAR 004:030
	401 KAR 052:100		810 KAR 005:070
	401 KAR 058:005		810 KAR 008:010
224.20-110	401 KAR 051:010		810 KAR 008:020
	401 KAR 052:100		810 KAR 008:070
	401 KAR 058:005	230.361	810 KAR 002:090
224.20-120	401 KAR 051:010		810 KAR 008:030
	401 KAR 052:100	230.3651	810 KAR 005:001
	401 KAR 058:005	230.370	810 KAR 002:090
224.20-300	401 KAR 058:005		810 KAR 008:020
224.20-310	401 KAR 058:005		810 KAR 008:070
224.20-320	401 KAR 058:005	230.770	810 KAR 007:040
224.43-010 – 224.43-815	401 KAR 006:350	230.802	810 KAR 007:040
224.46-012 – 224.46-870	401 KAR 006:350	230.990	810 KAR 007:040

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	811 KAR 001:250	286.8-036	808 KAR 001:170
237.109	902 KAR 008:100	286.8-060	808 KAR 001:170
237.115	902 KAR 008:100	286.8-070	808 KAR 001:170
241.067	804 KAR 010:040	286.8-080	808 KAR 001:170
241.069	804 KAR 010:040	286.8-090	808 KAR 001:170
241.021	804 KAR 010:040	286.8-255	808 KAR 001:170
243.020	103 KAR 040:050	286.8-260	808 KAR 001:170
243.200	103 KAR 040:050	286.8-290	808 KAR 001:170
243.720	103 KAR 040:091	286.9-010	808 KAR 001:170
243.850	103 KAR 040:050		808 KAR 009:050
244.150	103 KAR 040:010	286.9-020	808 KAR 001:170
246.030	302 KAR 045:010		808 KAR 009:050
246.250	302 KAR 015:020	286.9-030	808 KAR 001:170
	302 KAR 015:030		808 KAR 009:050
246.650	302 KAR 045:010	286.9-040	808 KAR 001:170
246.660	302 KAR 045:010		808 KAR 009:050
246.990	302 KAR 045:010	286.9-050	808 KAR 001:170
247	302 KAR 034:011		808 KAR 009:050
	302 KAR 035:011	286.9-060	808 KAR 001:170
	302 KAR 036:011		808 KAR 009:050
247.220	302 KAR 015:010	286.9-070	808 KAR 009:050
257	302 KAR 020:011	286.9-071	808 KAR 001:170
	302 KAR 020:012		808 KAR 009:050
	302 KAR 020:013	286.9-073	808 KAR 001:170
	302 KAR 022:050		808 KAR 009:050
257.020	302 KAR 021:011	286.9-080	808 KAR 001:170
	302 KAR 022:010		808 KAR 009:050
	302 KAR 022:020	286.9-104	808 KAR 009:050
	302 KAR 022:030	304.1-040	806 KAR 010:061
	302 KAR 022:070	304.17A-005	806 KAR 017:480
	302 KAR 022:080	304.17A-500	806 KAR 017:480
	302 KAR 022:130	304.17A-545	806 KAR 017:480
	302 KAR 022:150	304.17A-575	806 KAR 017:480
257.030	302 KAR 021:011	304.17A-576	806 KAR 017:480
	302 KAR 022:010	304.2-110	806 KAR 010:061
	302 KAR 022:030	304.2-140	806 KAR 047:010
	302 KAR 022:040	304.4-010	806 KAR 009:025
	302 KAR 022:130		806 KAR 009:221
	302 KAR 022:150		806 KAR 009:265
257.080	302 KAR 021:011	304.5-070	806 KAR 005:060
	302 KAR 022:030	304.5-140	806 KAR 005:025
	302 KAR 022:130	304.7-010 - 304.7-350	806 KAR 007:021
	302 KAR 022:150	304.7-361	806 KAR 007:031
257.160	302 KAR 022:040	304.9-030	806 KAR 009:221
260	302 KAR 010:011	304.9-105	806 KAR 009:025
	302 KAR 050:012		806 KAR 009:221
260.010	302 KAR 037:010	304.9-130	806 KAR 009:025
260.020	302 KAR 045:010	304.9-150	806 KAR 009:025
260.030	302 KAR 045:010	304.9-160	806 KAR 009:025
260.580	302 KAR 010:025		806 KAR 009:221
260.620	302 KAR 010:015	304.9-190	806 KAR 009:221
	302 KAR 010:100	304.9-230	806 KAR 009:025
260.850 – 260.869	302 KAR 050:020		806 KAR 009:221
	302 KAR 050:030	304.9-270	806 KAR 009:025
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261	302 KAR 020:014	304.9-430	806 KAR 009:025
	302 KAR 022:050		806 KAR 009:221
261.2	921 KAR 003:025	304.9-505	806 KAR 009:221
262.010 – 262.660	416 KAR 001:010		806 KAR 009:265
273.161 – 273.405	300 KAR 001:010	304.10-030	806 KAR 010:061
273.4	921 KAR 003:025	304.10-040	806 KAR 010:061
273.5	921 KAR 003:025	304.10-140	806 KAR 010:061
273.7	921 KAR 003:025	304.12-090 - 304.12-110	806 KAR 013:101
273.11	921 KAR 003:025	304.13-051 - 304.13-065	806 KAR 013:101
278	807 KAR 005:056	304.13-057	806 KAR 013:120
278.548	920 KAR 001:070	304.13-121	806 KAR 013:040
286.4	808 KAR 001:170	304.13-151	806 KAR 013:071
286.8-010	808 KAR 001:170	304.13-167	806 KAR 013:120
286.8-020	808 KAR 001:170	304.13-400 – 304.13-420	806 KAR 013:120
286.8-030	808 KAR 001:170	304.14-010	806 KAR 013:101
286.8-032	808 KAR 001:170	304.14-120	806 KAR 014:061
286.8-034	808 KAR 001:170		806 KAR 015:090

KRS SECTION	REGULATION	KRS SECTION	REGULATION
304.14-642	806 KAR 009:221		201 KAR 020:065
304.15-075	806 KAR 015:090		201 KAR 020:162
304.15-700	806 KAR 009:221		201 KAR 020:320
304.20-400 - 304.20-450	806 KAR 013:101		201 KAR 020:411
304.17A-257	902 KAR 021:020		902 KAR 020:160
304.47-010	806 KAR 047:010		907 KAR 015:005
304.47-020	806 KAR 047:010		922 KAR 002:090
304.47-040	806 KAR 047:010		922 KAR 002:100
304.47-050	806 KAR 047:010	314.021	201 KAR 020:320
304.47-080	806 KAR 047:010	314.031	201 KAR 020:162
304.99-020	806 KAR 003:230		201 KAR 020:110
309.080	902 KAR 020:160	314.035	201 KAR 020:470E
	902 KAR 020:440	314.041	201 KAR 020:110
	907 KAR 015:005		201 KAR 020:230
309.0831	902 KAR 020:160		201 KAR 020:225E
	902 KAR 020:440		201 KAR 020:320
	907 KAR 015:080		902 KAR 020:280
309.130	902 KAR 020:160		902 KAR 020:370
	902 KAR 020:430	314.042	201 KAR 020:057
	902 KAR 020:440		201 KAR 020:065
	907 KAR 015:005		201 KAR 020:225E
309.300 - 309.319	920 KAR 001:070		902 KAR 020:160
310.021	902 KAR 020:160		902 KAR 020:370
311.530-311.620	201 KAR 009:270		902 KAR 020:430
311.560	902 KAR 020:160		902 KAR 020:440
311.571	902 KAR 020:160	314.051	201 KAR 020:110
	902 KAR 020:280		201 KAR 020:225E
	902 KAR 020:440		201 KAR 020:230
311.646	922 KAR 002:100		902 KAR 020:370
311.840	907 KAR 015:005	314.071	201 KAR 020:162
311.840-311.862	902 KAR 020:160		201 KAR 020:225E
	902 KAR 020:440		201 KAR 020:230
311.860	902 KAR 020:430		902 KAR 020:370
311.990	201 KAR 009:270	314.073	201 KAR 020:225E
311A.015	202 KAR 007:020		201 KAR 020:230
311A.020	202 KAR 007:020	314.075	201 KAR 020:225E
311A.030	202 KAR 007:555	314.085	201 KAR 020:225E
311A.145	202 KAR 007:020	314.089	201 KAR 020:470E
311A.190	202 KAR 007:555	314.091	201 KAR 020:110
311B.020	201 KAR 046:010		201 KAR 020:162
	201 KAR 046:040		201 KAR 020:225E
	201 KAR 046:081		201 KAR 020:470E
311B.050	201 KAR 046:040		902 KAR 020:370
	201 KAR 046:050	314.103	201 KAR 020:110
	201 KAR 046:060		201 KAR 020:225E
	201 KAR 046:100		201 KAR 020:411
311B.080	201 KAR 046:035		201 KAR 020:470E
311B.100	201 KAR 046:040		902 KAR 020:370
	201 KAR 046:050	314.109	201 KAR 020:110
	201 KAR 046:070		201 KAR 020:225E
311B.110	201 KAR 046:081	314.111	201 KAR 020:320
	201 KAR 046:040	314.131	201 KAR 020:320
	201 KAR 046:060		902 KAR 020:410
311B.120	201 KAR 046:081	314.137	201 KAR 020:470E
	201 KAR 046:040	314.142	201 KAR 020:411
	201 KAR 046:050	314.161	201 KAR 020:162
	201 KAR 046:070	314.193	201 KAR 020:057
	201 KAR 046:081	314.195	201 KAR 020:057
311B.130	201 KAR 046:100	314.196	201 KAR 020:057
311B.150	201 KAR 046:081	314.404-314.416	201 KAR 020:600
311B.180	201 KAR 046:040		201 KAR 020:610
	201 KAR 046:050		201 KAR 020:620
	201 KAR 046:070		201 KAR 020:630
	201 KAR 046:081		201 KAR 020:640
311B.190	201 KAR 046:040		201 KAR 020:650
	201 KAR 046:050		201 KAR 020:660
	201 KAR 046:070		201 KAR 020:670
	201 KAR 046:081		201 KAR 020:680
313.021	201 KAR 008:590		201 KAR 020:690
313.035	201 KAR 008:550	314.475	201 KAR 020:110
313.060	201 KAR 008:540		902 KAR 020:370
313.085	201 KAR 008:540	314.991	201 KAR 020:110
314.011	017 KAR 001:030		201 KAR 020:162
	201 KAR 020:057		201 KAR 020:470E

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314A.110	201 KAR 029:015		815 KAR 020:090
314A.112	201 KAR 029:015		815 KAR 020:120
314A.215	201 KAR 029:015		815 KAR 020:130
314A.220	201 KAR 029:015		815 KAR 020:150
314.475	201 KAR 020:411		815 KAR 020:170
315.010	201 KAR 002:230		815 KAR 020:180
315.020	201 KAR 002:230	318.134	815 KAR 020:050
315.035	201 KAR 002:230		815 KAR 020:150
	201 KAR 020:050		815 KAR 020:195
315.0351	201 KAR 020:050	318.140	815 KAR 020:150
315.036	201 KAR 020:050	318.150	815 KAR 020:020
315.050	201 KAR 002:020		815 KAR 020:060
	201 KAR 020:050		815 KAR 020:070
315.060	201 KAR 002:050		815 KAR 020:090
315.110	201 KAR 002:050		815 KAR 020:120
315.120	201 KAR 002:050		815 KAR 020:130
315.191	201 KAR 002:050		815 KAR 020:170
	201 KAR 002:230	318.160	815 KAR 020:050
315.402	201 KAR 002:050		815 KAR 020:150
316	201 KAR 015:010		815 KAR 020:191
316.010	201 KAR 015:110	318.165	815 KAR 020:120
316.030	201 KAR 015:040	318.170	815 KAR 020:150
	201 KAR 015:050	318.200	815 KAR 020:020
	201 KAR 015:110		815 KAR 020:055
316.125	201 KAR 015:030		815 KAR 020:070
	201 KAR 015:110		815 KAR 020:130
316.127	201 KAR 015:110	319	907 KAR 015:010
316.130	201 KAR 015:030	319.050	902 KAR 020:160
	201 KAR 015:110		902 KAR 020:430
316.132	201 KAR 015:030		902 KAR 020:440
316.140	201 KAR 015:030	319.053	907 KAR 015:005
	201 KAR 015:120	319.056	902 KAR 020:160
316.150	201 KAR 015:080		902 KAR 020:430
316.165	201 KAR 015:125		902 KAR 020:440
316.170	201 KAR 015:015		907 KAR 015:005
316.210	201 KAR 015:015	319.064	902 KAR 020:160
316.260	201 KAR 015:110		902 KAR 020:430
317A.020	201 KAR 012:030		907 KAR 015:005
	201 KAR 012:082	319A.010	902 KAR 020:280
317A.050	201 KAR 012:030		907 KAR 001:604
	201 KAR 012:082	319C.010	902 KAR 020:160
	201 KAR 012:260		902 KAR 020:430
317A.060	201 KAR 012:030		902 KAR 020:440
	201 KAR 012:060		907 KAR 015:005
	201 KAR 012:140	320.210	902 KAR 020:160
317A.062	201 KAR 012:260	321	201 KAR 016:012
317A.090	201 KAR 012:082	321.181	201 KAR 016:600
	201 KAR 012:140	321.193	201 KAR 016:510
317A.130	201 KAR 012:100		201 KAR 016:520
317B.020	201 KAR 012:060		201 KAR 016:530
318	815 KAR 020:010		201 KAR 016:540
	815 KAR 020:080		201 KAR 016:570
	815 KAR 020:111	321.201	201 KAR 016:516
318.010	815 KAR 020:020	321.207	201 KAR 016:514
	815 KAR 020:030		201 KAR 016:550
	815 KAR 020:070		201 KAR 016:560
	815 KAR 020:130		201 KAR 016:572
	815 KAR 020:180		201 KAR 016:580
	815 KAR 020:195	321.211	201 KAR 016:510
318.015	815 KAR 020:020		201 KAR 016:570
	815 KAR 020:070		201 KAR 016:580
	815 KAR 020:090		201 KAR 016:590
	815 KAR 020:130	321.221	201 KAR 016:540
318.020	815 KAR 020:030		201 KAR 016:590
318.030	815 KAR 020:030	321.235	201 KAR 016:590
	815 KAR 020:050		201 KAR 016:610
318.040	815 KAR 020:030	321.240	201 KAR 016:510
318.050	815 KAR 020:030		201 KAR 016:512
318.054	815 KAR 020:030		201 KAR 016:516
318.060	815 KAR 020:030	321.351	201 KAR 016:500
318.080	815 KAR 020:030		201 KAR 016:610
318.090	815 KAR 020:150	321.353	201 KAR 016:610
318.130	815 KAR 020:020	321.360	201 KAR 016:610
	815 KAR 020:060	321.441	201 KAR 016:512

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	201 KAR 016:520	324A.035	201 KAR 030:040
	201 KAR 016:530		201 KAR 030:110
	201 KAR 016:540		201 KAR 030:130
	201 KAR 016:570		201 KAR 030:190
	201 KAR 016:580		201 KAR 030:330
	201 KAR 016:590	324A.040	201 KAR 030:110
322	401 KAR 006:320		201 KAR 030:190
322.010	405 KAR 008:010	324A.045	201 KAR 030:110
322.340	405 KAR 008:010		201 KAR 030:190
322A	401 KAR 006:320	324A.047	201 KAR 030:110
323A.040	201 KAR 010:050	324A.050	201 KAR 030:040
323A.050	201 KAR 010:050		201 KAR 030:070
323A.060	201 KAR 010:050	324A.052	201 KAR 030:070
323A.070	201 KAR 010:050		201 KAR 030:190
323A.100	201 KAR 010:050	324A.065	201 KAR 030:110
	201 KAR 010:080		201 KAR 030:190
323A.210	201 KAR 010:080	324A.075	201 KAR 030:190
324.010	201 KAR 011:011	324A.152	201 KAR 030:330
	201 KAR 011:121	324A.154	201 KAR 030:330
	201 KAR 011:170	324A.155	201 KAR 030:330
	201 KAR 011:210	324A.163	201 KAR 030:330
	201 KAR 011:220	325.240	201 KAR 001:100
324.020	201 KAR 011:210	325.261	201 KAR 001:190
	201 KAR 011:220	325.270	201 KAR 001:190
324.040	201 KAR 011:210	325.330	201 KAR 001:100
324.045	201 KAR 011:190	327.010	902 KAR 020:280
	201 KAR 011:210		907 KAR 001:604
324.046	201 KAR 011:011	327.300	201 KAR 022:170
	201 KAR 011:170	334A.020	902 KAR 020:280
	201 KAR 011:190		907 KAR 001:604
	201 KAR 011:210	335.010	201 KAR 023:070
324.085	201 KAR 011:170	335.080	201 KAR 023:070
	201 KAR 011:210		902 KAR 020:160
324.090	201 KAR 011:170		902 KAR 020:430
	201 KAR 011:210		902 KAR 020:440
324.111	201 KAR 011:011		907 KAR 015:005
	201 KAR 011:121	335.090	902 KAR 020:280
324.121	201 KAR 011:121	335.100	201 KAR 023:070
324.117	201 KAR 011:011		902 KAR 020:160
	201 KAR 011:105		902 KAR 020:430
324.141	201 KAR 011:210		902 KAR 020:440
324.150	201 KAR 011:190		907 KAR 015:005
324.151	201 KAR 011:190	335.300	902 KAR 020:160
324.160	201 KAR 011:011		902 KAR 020:430
	201 KAR 011:105		902 KAR 020:440
	201 KAR 011:121		907 KAR 015:005
	201 KAR 011:170	335.305	201 KAR 032:110
	201 KAR 011:190	335.310	201 KAR 032:110
	201 KAR 011:210	335.320	201 KAR 032:110
324.170	201 KAR 011:190	335.325	201 KAR 032:110
324.200	201 KAR 011:190	335.380	201 KAR 032:110
324.281	201 KAR 011:121	335.399	201 KAR 032:110
	201 KAR 011:170	335.500	201 KAR 036:060
	201 KAR 011:190		902 KAR 020:160
	201 KAR 011:210		902 KAR 020:430
324.282	201 KAR 011:002		902 KAR 020:440
	201 KAR 011:105		907 KAR 015:005
324.287	201 KAR 011:210	335.505	201 KAR 036:060
324.310	201 KAR 011:121	335.525	201 KAR 036:060
	201 KAR 011:210	337	902 KAR 008:040
324.330	201 KAR 011:210		902 KAR 008:120
324.360	201 KAR 011:121	338	803 KAR 002:304
324.395	201 KAR 011:220		803 KAR 002:311
324.410	201 KAR 011:011		803 KAR 002:400
324.420	201 KAR 011:011		803 KAR 002:406
324.990	201 KAR 011:210		803 KAR 002:407
324A	201 KAR 030:010		803 KAR 002:425
324A.020	201 KAR 030:190	338.015	803 KAR 002:180
324A.015	201 KAR 030:021		803 KAR 002:300
	201 KAR 030:040		803 KAR 002:320
324A.020	201 KAR 030:070		803 KAR 002:418
	201 KAR 030:110		803 KAR 002:500
324A.030	201 KAR 030:190	338.031	803 KAR 002:320
	201 KAR 030:330	338.051	803 KAR 002:301

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	803 KAR 002:312		805 KAR 009:011
	803 KAR 002:315	349.075	805 KAR 001:140
	803 KAR 002:316		805 KAR 009:011
	803 KAR 002:319	349.335	805 KAR 001:080
	803 KAR 002:403	349.045	805 KAR 001:020
	803 KAR 002:404	349.105	805 KAR 001:170
	803 KAR 002:418	349.110	805 KAR 001:020
	803 KAR 002:422		805 KAR 009:011
338.061	803 KAR 002:301	349.115	805 KAR 001:030
	803 KAR 002:312	349.120	805 KAR 001:050
	803 KAR 002:315		805 KAR 001:140
	803 KAR 002:316		805 KAR 001:170
	803 KAR 002:319		805 KAR 001:200
	803 KAR 002:403		805 KAR 009:011
	803 KAR 002:404	349.155	805 KAR 001:140
	803 KAR 002:418		805 KAR 001:170
	803 KAR 002:422		805 KAR 009:011
338.121	803 KAR 002:180	350	405 KAR 010:001
338.161	803 KAR 002:180		405 KAR 026:011
341.080	787 KAR 001:350E	350.010	400 KAR 001:110
341.115	787 KAR 001:350E		405 KAR 005:002
341.125	787 KAR 001:350E		405 KAR 005:032
342.020	803 KAR 025:260		405 KAR 026:011
	803 KAR 025:271E	350.020	405 KAR 007:050
342	803 KAR 025:096		405 KAR 008:010
342.035	803 KAR 025:260		405 KAR 010:050
	803 KAR 025:271E		405 KAR 026:011
342.640	702 KAR 003:130	350.028	400 KAR 001:110
342.0011	803 KAR 025:010		405 KAR 026:011
	803 KAR 025:260	350.050	405 KAR 007:040
	803 KAR 025:271E		405 KAR 026:011
	803 KAR 025:010	350.055	405 KAR 008:010
342.020	803 KAR 025:010		405 KAR 026:011
342.033	803 KAR 025:010	350.057	405 KAR 007:040
342.033	803 KAR 025:010		405 KAR 026:011
342.035	803 KAR 025:010	350.060	405 KAR 007:040
342.040	803 KAR 025:010		405 KAR 008:010
342.120	803 KAR 025:010		405 KAR 008:030
342.1242	803 KAR 025:010		405 KAR 010:050
342.125	803 KAR 025:010		405 KAR 026:011
342.165	803 KAR 025:010	350.062	405 KAR 026:011
342.185	803 KAR 025:010	350.064	405 KAR 010:050
342.205	803 KAR 025:010		405 KAR 026:011
342.260	803 KAR 025:010	350.070	400 KAR 001:110
	803 KAR 025:075		405 KAR 008:010
342.265	803 KAR 025:010		405 KAR 026:011
242.267-342.275	803 KAR 025:010	350.085	405 KAR 008:010
342.285	803 KAR 025:010		405 KAR 026:011
342.290	803 KAR 025:010	350.090	400 KAR 001:110
342.300-342.316	803 KAR 025:010		405 KAR 007:050
342.320	803 KAR 025:010		405 KAR 008:010
	803 KAR 025:070		405 KAR 026:011
342.335	803 KAR 025:010	350.093	400 KAR 001:110
342.340	803 KAR 025:010		405 KAR 010:050
342.395	803 KAR 025:010		405 KAR 016:210
342.610	803 KAR 025:010		405 KAR 018:220
342.650	803 KAR 025:010		405 KAR 026:011
342.710	803 KAR 025:010	350.095	405 KAR 010:050
342.715	803 KAR 025:010		405 KAR 016:210
342.730	803 KAR 025:010		405 KAR 018:220
342.732	803 KAR 025:010		405 KAR 026:011
342.760	803 KAR 025:010	350.100	405 KAR 016:100
342.792	803 KAR 025:010		405 KAR 016:210
343	787 KAR 003:010		405 KAR 018:100
344.030	101 KAR 002:102		405 KAR 018:220
	101 KAR 003:015		405 KAR 020:040
344.500	920 KAR 001:070		405 KAR 026:011
349.015	805 KAR 001:030	350.110	405 KAR 026:011
	805 KAR 001:140	350.113	405 KAR 026:011
	805 KAR 001:170	350.130	400 KAR 001:110
	805 KAR 009:011		405 KAR 005:032
349.035	805 KAR 001:140		405 KAR 008:010
	805 KAR 009:011		405 KAR 010:050
349.040	805 KAR 001:140	350.131	405 KAR 010:050

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350.135	405 KAR 008:010		805 KAR 001:060
	405 KAR 026:011		805 KAR 001:080
350.151	405 KAR 010:050		805 KAR 001:110
	405 KAR 018:100		805 KAR 001:180
	405 KAR 018:220		805 KAR 001:200
	405 KAR 026:011	353.560	805 KAR 001:080
350.240	405 KAR 005:002	353.561 - 353.564	805 KAR 001:140
	405 KAR 005:032		805 KAR 001:170
350.255	400 KAR 001:110	353.570	805 KAR 001:110
350.300	405 KAR 005:002	353.590	805 KAR 001:030
	405 KAR 005:032		805 KAR 001:050
350.405	405 KAR 016:210		805 KAR 001:110
	405 KAR 020:040		805 KAR 001:140
350.410	405 KAR 007:040		805 KAR 001:170
	405 KAR 016:210		805 KAR 001:190
	405 KAR 018:220	353.5901	805 KAR 001:140
350.415	405 KAR 020:040		805 KAR 001:170
350.420	405 KAR 007:050		805 KAR 001:190
	405 KAR 016:100	353.592	805 KAR 001:140
	405 KAR 018:100		805 KAR 001:170
350.445	405 KAR 026:011	353.595	805 KAR 001:170
350.450	405 KAR 007:040	353.597	805 KAR 001:170
	405 KAR 008:010	353.610	805 KAR 001:140
	405 KAR 016:210	353.651	805 KAR 001:140
	405 KAR 018:220		805 KAR 001:170
	405 KAR 020:040	353.652	805 KAR 001:140
	405 KAR 026:011		805 KAR 001:170
350.455	405 KAR 016:100	353.656	805 KAR 001:160
	405 KAR 018:100	353.6601 - 353.6606	805 KAR 001:140
350.465	400 KAR 001:110		805 KAR 001:170
	405 KAR 008:010	353.730	805 KAR 001:140
	405 KAR 008:030		805 KAR 001:170
	405 KAR 010:050	353.735 - 353.747	805 KAR 001:200
	405 KAR 016:100	353.737	805 KAR 001:030
	405 KAR 016:210		805 KAR 001:140
	405 KAR 018:100		805 KAR 001:170
	405 KAR 018:220	353.745	805 KAR 001:190
	405 KAR 020:040	353.990	805 KAR 001:060
	405 KAR 026:011	353.991	805 KAR 001:140
350.500 - 350.521	405 KAR 008:010		805 KAR 001:170
350.990	400 KAR 001:110		805 KAR 001:190
	405 KAR 026:011	353.992	805 KAR 001:110
350.0301	400 KAR 001:110	363.410	302 KAR 081:010
351.315	400 KAR 001:110	363.510	302 KAR 075:130
351.330	805 KAR 004:050		302 KAR 076:100
331.335	805 KAR 004:050		302 KAR 080:010
331.360	805 KAR 004:050		302 KAR 081:010
351.345	400 KAR 001:110	363.610	302 KAR 081:010
351.350	400 KAR 001:110	363.710	302 KAR 076:100
352.340	805 KAR 007:101	363.720	302 KAR 075:130
353.050	805 KAR 001:140	363.730	302 KAR 075:130
353.060	805 KAR 001:140	363.770	302 KAR 076:100
353.120	805 KAR 001:060	363.780	302 KAR 076:100
353.160	805 KAR 001:190	363.800	302 KAR 076:100
353.170	805 KAR 001:060	365.650	103 KAR 025:060
353.180	805 KAR 001:060	365.665	103 KAR 025:060
	805 KAR 001:110	365.680	103 KAR 025:060
	805 KAR 001:140	369.101 - 369.120	907 KAR 015:010
	805 KAR 001:170	369.102	601 KAR 009:130
353.500	805 KAR 001:080	369.107	601 KAR 009:130
	805 KAR 001:160	383.085	902 KAR 045:065
	805 KAR 001:190		902 KAR 045:070
353.500 - 353.730	805 KAR 001:001	387	922 KAR 001:565
353.510	805 KAR 001:110	387.010	902 KAR 045:065
	805 KAR 001:140		902 KAR 045:070
	805 KAR 001:170	401	105 KAR 001:149
353.520	805 KAR 001:020	402	105 KAR 001:149
	805 KAR 001:080	403	105 KAR 001:149
	805 KAR 001:110	403.270 - 403.355	922 KAR 001:565
	805 KAR 001:120	403.707	201 KAR 020:411
	805 KAR 001:140	405.024	922 KAR 001:565
	805 KAR 001:170	416.120	921 KAR 002:015
353.540	805 KAR 001:080	416.212	921 KAR 002:015
353.550	805 KAR 001:030	416.2030	921 KAR 002:015

KRS SECTION	REGULATION	KRS SECTION	REGULATION
416.2095	921 KAR 002:015	600.010	922 KAR 001:330
416.2096	921 KAR 002:015	600.020	922 KAR 001:320
416.2099	921 KAR 002:015		922 KAR 001:330
421.500-421.575	201 KAR 020:411		922 KAR 001:490
	922 KAR 008:010		922 KAR 001:565
422.317	201 KAR 008:540		922 KAR 002:090
	907 KAR 003:170		922 KAR 002:100
423	030 KAR 008:005	600-645	505 KAR 001:120
424	805 KAR 001:140		505 KAR 001:160
424.110 - 424.120	405 KAR 008:010	605.090	922 KAR 001:320
424.260	702 KAR 003:130		922 KAR 001:330
430.10	907 KAR 001:604		922 KAR 001:490
431.51	907 KAR 001:604	605.120	922 KAR 001:490
431.600	922 KAR 001:330		922 KAR 001:565
431.600-431.660	201 KAR 020:411	605.130	922 KAR 001:330
434.840 – 434.860	907 KAR 003:170		922 KAR 001:490
439	501 KAR 006:020		922 KAR 001:565
	501 KAR 006:060	605.150	922 KAR 001:330
	501 KAR 006:110		922 KAR 001:565
	501 KAR 006:120	610.010	922 KAR 001:330
	501 KAR 006:140	610.110	922 KAR 001:320
	501 KAR 006:160		922 KAR 001:565
436.265	501 KAR 006:280	620.010 - 620.050	922 KAR 001:330
439.315	501 KAR 001:040	620.020	922 KAR 001:320
439.330	501 KAR 001:040		922 KAR 001:560
	501 KAR 001:071		922 KAR 001:565
439.331	501 KAR 006:280		922 KAR 002:090
439.340	501 KAR 001:071		922 KAR 002:100
439.341	501 KAR 001:040	620.030	902 KAR 020:280
	501 KAR 001:071		922 KAR 002:090
439.346	501 KAR 001:040		922 KAR 002:100
	501 KAR 001:071		922 KAR 008:010
439.348	501 KAR 006:280	620.050	922 KAR 001:490
439.390	501 KAR 001:040	620.070	922 KAR 001:330
439.430	501 KAR 001:040	620.072	922 KAR 001:330
	501 KAR 001:071	620.090	922 KAR 001:565
439.440	501 KAR 001:040	620.140	922 KAR 001:320
439.480	501 KAR 006:280		922 KAR 001:565
439.3101	501 KAR 006:280	620.142	922 KAR 001:320
439.3104	501 KAR 006:280		922 KAR 001:565
439.3105	501 KAR 006:280	620.157	922 KAR 001:320
439.3401	902 KAR 020:430	620.170	922 KAR 001:565
	902 KAR 020:450	620.180	922 KAR 001:320
439.3406	501 KAR 001:040		922 KAR 001:330
446.010	501 KAR 006:280	620.230	922 KAR 001:320
447.15	907 KAR 001:604	620.350	922 KAR 001:330
447.20	907 KAR 001:604	620.363	922 KAR 001:320
447.21	907 KAR 001:604	620.990	922 KAR 001:330
447.50	907 KAR 001:604	625.065	922 KAR 001:560
447.52	907 KAR 001:604	2019 RS HB220	806 KAR 003:240
447.54	907 KAR 001:604	7 C.F.R.	405 KAR 008:030
447.55	907 KAR 001:604		405 KAR 010:001
447.56	907 KAR 001:604		921 KAR 003:025
447.57	907 KAR 001:604		921 KAR 003:050
457.224	907 KAR 001:604		922 KAR 002:100
457.310	907 KAR 001:604	12 C.F.R.	201 KAR 030:040
457.505	907 KAR 001:604		201 KAR 030:190
457.510	907 KAR 001:604		201 KAR 030:330
457.515	907 KAR 001:604	16 C.F.R.	201 KAR 015:110
457.520	907 KAR 001:604		922 KAR 002:100
457.530	907 KAR 001:604	20 C.F.R.	921 KAR 002:015
457.535	907 KAR 001:604	21 C.F.R.	902 KAR 045:090
457.570	907 KAR 001:604		902 KAR 055:120
503.110	922 KAR 001:330	24 C.F.R.	201 KAR 011:121
514	921 KAR 002:015	26 C.F.R.	102 KAR 001:032
527.070	922 KAR 002:100		105 KAR 001:390
527.100	922 KAR 001:565		921 KAR 003:050
527.110	922 KAR 001:565	27 C.F.R.	405 KAR 008:010
529.010	922 KAR 001:330	28 C.F.R.	201 KAR 011:210
532.043	501 KAR 001:040		902 KAR 045:065
	501 KAR 001:071		902 KAR 045:070
532.045	922 KAR 001:330		920 KAR 001:070
532.060	501 KAR 001:071	29 C.F.R.	101 KAR 002:102
532.400	501 KAR 001:040		101 KAR 003:015

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	202 KAR 007:555		922 KAR 002:100
	803 KAR 002:180	7 U.S.C.	302 KAR 050:050
	803 KAR 002:300		921 KAR 003:025
	803 KAR 002:304	8 U.S.C.	921 KAR 002:015
	803 KAR 002:301	9 U.S.C.	202 KAR 006:010
	803 KAR 002:311		202 KAR 006:050
	803 KAR 002:312		202 KAR 006:080
	803 KAR 002:315		202 KAR 006:090
	803 KAR 002:316	12 U.S.C.	201 KAR 030:010
	803 KAR 002:319		201 KAR 030:040
	803 KAR 002:320		201 KAR 030:110
	803 KAR 002:400		201 KAR 030:130
	803 KAR 002:403		201 KAR 030:190
	803 KAR 002:404	15 U.S.C.	201 KAR 030:330
	803 KAR 002:406		806 KAR 003:230
	803 KAR 002:407	16 U.S.C.	405 KAR 008:010
	803 KAR 002:418		405 KAR 008:030
	803 KAR 002:422	18 U.S.C.	501 KAR 006:160
	803 KAR 002:425		601 KAR 002:030E
	803 KAR 002:500	20 U.S.C.	013 KAR 001:020
	902 KAR 008:040		702 KAR 007:065
	902 KAR 008:120		703 KAR 005:270
	902 KAR 045:065		703 KAR 005:280
	902 KAR 045:070		704 KAR 007:090
30 C.F.R.	400 KAR 001:110		780 KAR 001:011
	405 KAR 008:010		902 KAR 020:160
	405 KAR 008:030		902 KAR 020:430
	405 KAR 010:001		907 KAR 015:010
	405 KAR 010:050		907 KAR 015:020
	405 KAR 016:100		922 KAR 002:100
	405 KAR 016:210	21 U.S.C.	902 KAR 045:090
	405 KAR 018:100		907 KAR 015:070
	405 KAR 018:220		907 KAR 015:080
34 C.F.R.	902 KAR 030:010E		201 KAR 020:065
40 C.F.R.	302 KAR 031:040	26 U.S.C.	102 KAR 001:032
	401 KAR 010:001		105 KAR 001:149
	401 KAR 010:029		105 KAR 001:390
	401 KAR 051:010		301 KAR 003:100
	401 KAR 052:100		907 KAR 005:005
	401 KAR 058:005	29 U.S.C.	101 KAR 002:102
	405 KAR 008:030		101 KAR 003:015
	405 KAR 010:001		201 KAR 015:110
	805 KAR 001:110		902 KAR 008:040
42 C.F.R.	805 KAR 001:190		902 KAR 008:120
	900 KAR 002:050		902 KAR 020:160
	902 KAR 002:065		902 KAR 020:430
	902 KAR 020:160		907 KAR 005:005
	902 KAR 020:450		907 KAR 015:005
	907 KAR 001:604		907 KAR 015:010
	907 KAR 003:170		907 KAR 015:020
	907 KAR 005:005		920 KAR 001:070
	907 KAR 010:830	30 U.S.C.	400 KAR 001:110
	907 KAR 010:840		401 KAR 010:030
	907 KAR 015:005		405 KAR 008:010
	907 KAR 015:010		405 KAR 008:030
	907 KAR 015:020		405 KAR 010:050
	907 KAR 015:080		405 KAR 016:100
44 C.F.R.	201 KAR 011:121		405 KAR 016:210
45 C.F.R.	902 KAR 020:160		405 KAR 018:100
	902 KAR 020:370		405 KAR 018:220
	902 KAR 020:430	31 U.S.C.	045 KAR 001:050
	902 KAR 020:440	33 U.S.C.	401 KAR 010:029
	902 KAR 020:450	34 U.S.C.	922 KAR 008:010
	907 KAR 015:010	38 U.S.C.	902 KAR 008:096
	907 KAR 015:020	42 U.S.C.	201 KAR 008:540
	920 KAR 001:070		202 KAR 006:050
	921 KAR 003:025		401 KAR 051:010
	922 KAR 001:320		401 KAR 052:100
	922 KAR 001:490		401 KAR 063:010
	922 KAR 002:090		702 KAR 006:040
	922 KAR 002:100		704 KAR 007:090
49 C.F.R.	302 KAR 031:040		805 KAR 001:110
	702 KAR 005:080		815 KAR 020:060
	805 KAR 001:190		900 KAR 002:050

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	902 KAR 020:160		
	902 KAR 020:370		
	902 KAR 020:430		
	902 KAR 020:440		
	902 KAR 020:450		
	902 KAR 021:020		
	907 KAR 001:604		
	907 KAR 005:005		
	907 KAR 010:830		
	907 KAR 010:840		
	907 KAR 015:010		
	907 KAR 015:015		
	907 KAR 015:020		
	907 KAR 015:022		
	907 KAR 015:025		
	907 KAR 015:070		
	920 KAR 001:070		
	921 KAR 002:015		
	922 KAR 001:320		
	922 KAR 001:330		
	922 KAR 001:490		
	922 KAR 001:565		
	922 KAR 002:090		
	922 KAR 002:100		
47 U.S.C.	202 KAR 006:010		
	202 KAR 006:020		
	202 KAR 006:030		
	202 KAR 006:050		
	202 KAR 006:060		
	202 KAR 006:070		
	202 KAR 006:080		
	202 KAR 006:090		
	202 KAR 006:100		
50 C.F.R.	302 KAR 045:010		
Pub.L. 104-191	902 KAR 030:010E		
	920 KAR 001:070		
Pub.L. 110-325	920 KAR 001:070		
EO 2020-215	800 KAR 001:010		
EO 2020-253	800 KAR 001:010		

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	Letter Filed Date	Action
001 KAR 002:010	02-19-2020	Remain in Effect As Is
001 KAR 004:005	02-19-2020	Remain in Effect As Is
001 KAR 004:010	02-19-2020	Remain in Effect As Is
001 KAR 005:010	02-19-2020	Remain in Effect As Is
001 KAR 006:020	02-19-2020	Remain in Effect As Is
004 KAR 001:020	01-27-2020	Remain in Effect As Is
004 KAR 001:030	01-27-2020	Remain in Effect As Is
009 KAR 001:050	01-28-2020	Remain in Effect As Is
010 KAR 002:020	02-24-2020	To be amended, filing deadline 08-24-21
012 KAR 001:120	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:125	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:130	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:160	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:170	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:175	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:080	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:090	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:100	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:110	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:120	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:130	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:140	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:160	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:170	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:010	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:020	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:030	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:040	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:050	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:060	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:070	06-06-2019	To be amended, filing deadline 12-10-20
013 KAR 001:030	02-06-2020	To be amended, filing deadline 08-06-21
013 KAR 001:050	02-06-2020	To be amended. Amendment filed 5-14-2020.
013 KAR 002:025	02-06-2020	Remain in Effect As Is
013 KAR 002:070	02-06-2020	Remain in Effect As Is

Regulation Number	Letter Filed Date	Action
013 KAR 002:080	02-06-2020	Remain in Effect As Is
013 KAR 002:100	02-06-2020	To be amended, filing deadline 08-6-21
013 KAR 003:010	02-04-2020	To be amended, filing deadline 08-04-21
013 KAR 003:020	02-04-2020	To be amended, filing deadline 08-04-21
013 KAR 003:030	02-04-2020	To be amended, filing deadline 08-04-21
013 KAR 003:040	02-04-2020	To be amended, filing deadline 08-04-21
013 KAR 003:050	02-04-2020	To be amended, filing deadline 08-04-21
013 KAR 003:060	02-04-2020	To be amended, filing deadline 08-04-21
016 KAR 001:020	02-27-2020	Remain in Effect As Is
016 KAR 001:040	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 001:050	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 002:030	02-27-2020	Remain in Effect As Is
016 KAR 002:040	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 002:050	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 002:070	02-27-2020	Remain in Effect As Is
016 KAR 002:080	02-27-2020	Remain in Effect As Is
016 KAR 002:090	02-27-2020	Remain in Effect As Is
016 KAR 002:130	02-27-2020	Remain in Effect As Is
016 KAR 002:180	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 003:060	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 003:070	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 004:010	02-27-2020	Remain in Effect As Is
016 KAR 004:020	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 004:050	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 004:070	02-27-2020	Remain in Effect As Is
016 KAR 005:010	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 007:020	02-27-2020	Remain in Effect As Is
016 KAR 008:010	02-27-2020	Remain in Effect As Is
016 KAR 008:020	02-27-2020	Remain in Effect As Is
016 KAR 009:010	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 009:020	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 009:050	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 009:060	02-27-2020	Remain in Effect As Is
016 KAR 009:070	02-27-2020	To be amended, filing deadline 08-27-21
016 KAR 009:090	02-27-2020	To be amended, filing deadline 08-27-21
020 KAR 001:010	06-07-2019	Remain in Effect As Is
020 KAR 001:020	06-07-2019	Remain in Effect As Is
020 KAR 001:030	06-07-2019	Remain in Effect As Is
020 KAR 001:040	06-07-2019	Remain in Effect As Is

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Regulation Number	Letter Filed Date	Action
201 KAR 041:090	12-11-2019	Remain in Effect As Is
201 KAR 041:100	12-11-2019	Remain in Effect As Is
201 KAR 042:010	02-26-2020	Remain in Effect As Is
201 KAR 042:030	02-26-2020	Remain in Effect As Is
201 KAR 042:070	02-26-2020	Remain in Effect As Is
201 KAR 043:030	05-20-2020	Remain in Effect As Is
201 KAR 043:040	02-27-2020	Remain in Effect As Is
201 KAR 043:060	05-20-2020	Remain in Effect As Is
201 KAR 043:070	05-20-2020	Remain in Effect As Is
201 KAR 044:060	02-21-2020	Remain in Effect As Is
201 KAR 044:070	02-21-2020	Remain in Effect As Is
202 KAR 003:020	02-28-2020	To be amended, filing deadline 08-28-21
202 KAR 007:330	02-12-2020	Remain in Effect As Is
202 KAR 007:540	02-12-2020	Remain in Effect As Is
202 KAR 008:030	02-28-2020	Remain in Effect As Is
300 KAR 001:010	02-12-2020	Remain in Effect As Is
300 KAR 002:010	02-12-2020	Remain in Effect As Is
300 KAR 002:020	02-12-2020	Remain in Effect As Is
300 KAR 002:030	02-12-2020	Remain in Effect As Is
300 KAR 002:040	02-12-2020	Remain in Effect As Is
300 KAR 005:010	02-12-2020	Remain in Effect As Is
300 KAR 006:020	02-12-2020	Remain in Effect As Is
300 KAR 007:010	02-12-2020	Remain in Effect As Is
301 KAR 001:010	11-08-2019	Remain in Effect As Is
301 KAR 001:012	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:016	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:018	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:019	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:031	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:035	11-08-2019	Remain in Effect As Is
301 KAR 001:050	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:058	11-08-2019	Remain in Effect As Is
301 KAR 001:060	11-08-2019	Remain in Effect As Is
301 KAR 001:080	11-08-2019	Remain in Effect As Is
301 KAR 001:082	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:110	11-08-2019	Remain in Effect As Is
301 KAR 001:120	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:125	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:140	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:150	02-05-2020	Remain in Effect As Is
301 KAR 001:171	11-08-2019	Remain in Effect As Is
301 KAR 001:180	11-08-2019	Remain in Effect As Is
301 KAR 001:210	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 001:400	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 002:015	11-19-2019	To be amended, filing deadline 05-19-21
301 KAR 002:041	11-19-2019	To be amended, filing deadline 05-19-22
301 KAR 002:050	11-19-2019	To be amended, filing deadline 05-19-23
301 KAR 002:082	02-05-2020	To be amended, filing deadline 08-5-21
301 KAR 002:084	11-19-2019	To be amended, filing deadline 05-19-24
301 KAR 002:090	02-25-2020	Remain in Effect As Is

Regulation Number	Letter Filed Date	Action
301 KAR 002:111	11-19-2019	To be amended, filing deadline 05-19-25
301 KAR 002:130	02-05-2020	Remain in Effect As Is
301 KAR 002:142	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 002:185	02-25-2020	Remain in Effect As Is
301 KAR 002:224	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 002:230	11-19-2019	To be amended, filing deadline 05-19-26
301 KAR 002:260	11-19-2019	To be amended, filing deadline 05-19-27
301 KAR 003:010	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 003:012	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 003:026	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 003:027	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 003:030	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 003:040	12-13-2019	Remain in Effect As Is
301 KAR 003:061	12-13-2019	Remain in Effect As Is
301 KAR 003:110	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 004:001	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 004:010	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 004:020	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 004:040	12-13-2019	Remain in Effect As Is
301 KAR 004:050	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 004:061	12-13-2019	Remain in Effect As Is
301 KAR 004:070	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 004:100	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 004:110	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 005:001	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 005:030	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 005:050	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 005:100	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 006:001	02-05-2020	To be amended, filing deadline 08-05-21
301 KAR 006:010	02-05-2020	Remain in Effect As Is
301 KAR 006:020	02-05-2020	Remain in Effect As Is
301 KAR 006:030	02-05-2020	Remain in Effect As Is
301 KAR 006:040	02-05-2020	Remain in Effect As Is
301 KAR 006:060	02-05-2020	Remain in Effect As Is
301 KAR 006:070	02-05-2020	To be amended, filing deadline 08-05-21
302 KAR 010:010	02-18-2020	Remain in Effect As Is
302 KAR 010:020	02-18-2020	Remain in Effect As Is
302 KAR 010:030	02-18-2020	Remain in Effect As Is
302 KAR 010:040	02-18-2020	Remain in Effect As Is
302 KAR 010:050	02-18-2020	Remain in Effect As Is
302 KAR 010:060	02-18-2020	Remain in Effect As Is
302 KAR 010:070	02-18-2020	Remain in Effect As Is
302 KAR 010:080	02-18-2020	Remain in Effect As Is
302 KAR 010:090	02-18-2020	Remain in Effect As Is
302 KAR 010:100	02-18-2020	Remain in Effect As Is

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Regulation Number	Letter Filed Date	Action
302 KAR 015:010	02-18-2020	Remain in Effect As Is
302 KAR 015:020	02-18-2020	Remain in Effect As Is
302 KAR 015:030	02-18-2020	Remain in Effect As Is
302 KAR 016:030	02-18-2020	Remain in Effect As Is
302 KAR 020:010	02-18-2020	Remain in Effect As Is
302 KAR 020:020	02-18-2020	Remain in Effect As Is
302 KAR 020:030	02-18-2020	Remain in Effect As Is
302 KAR 020:040	02-18-2020	Remain in Effect As Is
302 KAR 020:050	02-18-2020	Remain in Effect As Is
302 KAR 020:052	02-18-2020	Remain in Effect As Is
302 KAR 020:055	02-18-2020	Remain in Effect As Is
302 KAR 020:065	02-18-2020	Remain in Effect As Is
302 KAR 020:070	02-18-2020	Remain in Effect As Is
302 KAR 020:090	02-18-2020	Remain in Effect As Is
302 KAR 020:100	02-18-2020	Remain in Effect As Is
302 KAR 020:115	02-18-2020	Remain in Effect As Is
302 KAR 020:130	02-18-2020	Remain in Effect As Is
302 KAR 020:140	02-18-2020	Remain in Effect As Is
302 KAR 020:150	02-18-2020	Remain in Effect As Is
302 KAR 020:180	02-18-2020	Remain in Effect As Is
302 KAR 020:185	02-18-2020	Remain in Effect As Is
302 KAR 020:240	02-18-2020	Remain in Effect As Is
302 KAR 020:250	02-18-2020	Remain in Effect As Is
302 KAR 020:261	02-18-2020	Remain in Effect As Is
302 KAR 021:005	02-18-2020	Remain in Effect As Is
302 KAR 029:070	06-27-2019	Remain in Effect As Is
302 KAR 031:040	02-18-2020	Remain in Effect As Is
302 KAR 037:010	02-18-2020	Remain in Effect As Is
302 KAR 045:010	02-18-2020	Remain in Effect As Is
302 KAR 079:010	02-18-2020	Remain in Effect As Is
303 KAR 001:005	02-12-2020	To be amended, filing deadline 08-12-21
303 KAR 001:010	02-12-2020	To be amended, filing deadline 08-12-21
303 KAR 001:015	02-12-2020	To be amended, filing deadline 08-12-21
303 KAR 001:075	02-12-2020	To be amended, filing deadline 08-12-21
303 KAR 001:080	02-12-2020	To be amended, filing deadline 08-12-21
303 KAR 001:090	02-12-2020	To be amended, filing deadline 08-12-21
303 KAR 001:100	02-12-2020	To be amended, filing deadline 08-12-21
304 KAR 001:010	02-12-2020	Remain in Effect As Is
304 KAR 001:020	02-12-2020	Remain in Effect As Is
304 KAR 001:030	02-12-2020	Remain in Effect As Is
304 KAR 001:040	02-12-2020	Remain in Effect As Is
304 KAR 001:050	02-12-2020	Remain in Effect As Is
304 KAR 001:080	02-12-2020	Remain in Effect As Is
401 KAR 058:005	07-30-2018	To be amended. Amendment filed 06-14-19, effective 6-14-2019.
420 KAR 001:010	02-05-2020	Remain in Effect As Is
420 KAR 001:020	02-05-2020	Remain in Effect As Is
420 KAR 001:030	02-05-2020	Remain in Effect As Is
420 KAR 001:040	02-05-2020	Remain in Effect As Is
420 KAR 001:050	02-05-2020	Remain in Effect As Is
500 KAR 001:010	02-25-2020	Remain in Effect As Is
500 KAR 001:020	02-25-2020	To be amended, filing deadline 08-25-21
500 KAR 001:030	02-25-2020	Remain in Effect As Is
500 KAR 003:010	02-25-2020	Remain in Effect As Is
500 KAR 010:001	12-03-2019	To be amended. Amendment filed 12-03-19.
500 KAR 010:020	12-03-2019	To be amended. Amendment filed 12-03-19.

Regulation Number	Letter Filed Date	Action
500 KAR 010:030	12-03-2019	To be amended. Amendment filed 12-03-19.
500 KAR 010:040	12-03-2019	To be amended. Amendment filed 12-03-19.
500 KAR 012:010	02-20-2020	To be amended, filing deadline 08-20-21
500 KAR 014:010	02-25-2020	Remain in Effect As Is
500 KAR 014:020	02-25-2020	Remain in Effect As Is
500 KAR 020:010	02-20-2020	Remain in Effect As Is
500 KAR 020:020	02-20-2020	Remain in Effect As Is
501 KAR 001:040	10-21-2019	To be amended. Amendment filed 10-21-19.
501 KAR 001:050	02-20-2020	To be amended, filing deadline 08-20-21
501 KAR 002:030	02-20-2020	Remain in Effect As Is
501 KAR 002:040	02-20-2020	Remain in Effect As Is
501 KAR 002:050	02-25-2020	To be amended, filing deadline 08-25-21
501 KAR 002:070	02-20-2020	To be amended, filing deadline 08-20-21
501 KAR 003:110	02-20-2020	To be amended, filing deadline 08-20-21
501 KAR 003:120	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 003:130	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 003:150	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 003:170	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 006:080	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 006:120	02-21-2020	To be amended. Amendment filed 5-14-20.
501 KAR 006:190	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 006:200	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 006:220	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 006:250	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 006:260	02-20-2020	Remain in Effect As Is
501 KAR 007:040	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:060	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:090	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:100	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:110	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:120	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:130	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:140	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 007:150	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 014:010	02-21-2020	To be amended, filing deadline 08-21-21
501 KAR 015:010	02-20-2020	Remain in Effect As Is
501 KAR 015:020	02-20-2020	Remain in Effect As Is
501 KAR 016:001	02-20-2020	Remain in Effect As Is
501 KAR 016:320	02-20-2020	Remain in Effect As Is
502 KAR 005:020	02-25-2020	Remain in Effect As Is

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Regulation Number	Letter Filed Date	Action
503 KAR 003:020	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 003:030	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 003:050	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 003:070	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 004:010	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 004:020	02-25-2020	Remain in Effect As Is
503 KAR 004:040	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 004:050	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 004:060	02-25-2020	Remain in Effect As Is
503 KAR 005:080	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 005:100	02-25-2020	To be amended, filing deadline 08-25-21
503 KAR 005:110	02-25-2020	Remain in Effect As Is
503 KAR 005:120	02-25-2020	Remain in Effect As Is
503 KAR 005:130	02-25-2020	Remain in Effect As Is
600 KAR 005:010	12-04-2019	Remain in Effect As Is
601 KAR 001:005	11-26-2019	Remain in Effect As Is
601 KAR 001:020	11-26-2019	Remain in Effect As Is
601 KAR 001:040	11-26-2019	Remain in Effect As Is
601 KAR 001:080	09-09-2019	Remain in Effect As Is
601 KAR 001:140	09-09-2019	Remain in Effect As Is
601 KAR 001:200	09-09-2019	Remain in Effect As Is
601 KAR 002:030	02-10-2020	Remain in Effect As Is
601 KAR 003:030	11-26-2019	Remain in Effect As Is
601 KAR 004:055	11-26-2019	Remain in Effect As Is
601 KAR 009:040	11-26-2019	Remain in Effect As Is
601 KAR 009:045	11-26-2019	Remain in Effect As Is
601 KAR 009:115	09-09-2019	Remain in Effect As Is
601 KAR 009:140	09-25-2019	Remain in Effect As Is
601 KAR 011:040	11-26-2019	Remain in Effect As Is
601 KAR 014:010	11-12-2019	Remain in Effect As Is
601 KAR 035:060	11-26-2019	Remain in Effect As Is
601 KAR 035:060	03-18-2019	Remain in Effect As Is
601 KAR 040:020	11-26-2019	Remain in Effect As Is
603 KAR 003:030	03-18-2019	Remain in Effect As Is
603 KAR 005:066	11-26-2019	Remain in Effect As Is
603 KAR 005:071	11-26-2019	Remain in Effect As Is
603 KAR 005:320	11-29-2019	Remain in Effect As Is
603 KAR 007:020	11-26-2019	Remain in Effect As Is
603 KAR 040:020	03-18-2019	Remain in Effect As Is
702 KAR 003:100	06-28-2019	Remain in Effect As Is
702 KAR 003:110	06-28-2019	Remain in Effect As Is
702 KAR 003:120	06-28-2019	Remain in Effect As Is
702 KAR 003:220	06-28-2019	Remain in Effect As Is
702 KAR 004:160	02-11-2020	To be amended, filing deadline 08-11-21
702 KAR 005:030	06-28-2019	Remain in Effect As Is
702 KAR 005:110	06-28-2019	Remain in Effect As Is
702 KAR 006:110	06-28-2019	Remain in Effect As Is
703 KAR 005:140	06-28-2019	Remain in Effect As Is
704 KAR 003:095	12-09-2019	Remain in Effect As Is
704 KAR 007:160	12-09-2019	Remain in Effect As Is
704 KAR 019:002	12-09-2019	Remain in Effect As Is
705 KAR 002:140	06-28-2019	Remain in Effect As Is
707 KAR 001:002	06-28-2019	Remain in Effect As Is
707 KAR 001:310	06-28-2019	Remain in Effect As Is
707 KAR 001:340	06-28-2019	Remain in Effect As Is
725 KAR 001:010	01-28-2020	To be amended, filing deadline 07-28-21

Regulation Number	Letter Filed Date	Action
725 KAR 001:020	01-28-2020	To be amended, filing deadline 07-28-21
725 KAR 001:025	01-28-2020	To be amended, filing deadline 07-28-21
725 KAR 001:030	01-28-2020	To be amended, filing deadline 07-28-21
725 KAR 001:040	01-28-2020	To be amended, filing deadline 07-28-21
725 KAR 001:050	01-28-2020	To be amended, filing deadline 07-28-21
725 KAR 001:061	01-28-2020	To be amended, filing deadline 07-28-21
725 KAR 002:015	01-28-2020	To be amended, filing deadline 07-28-21
725 KAR 002:040	01-28-2020	Remain in Effect As Is
725 KAR 002:060	01-28-2020	To be amended. Amendment filed 3-13-20.
725 KAR 002:070	01-28-2020	Remain in Effect As Is
725 KAR 002:080	01-28-2020	To be amended, filing deadline 07-28-21
739 KAR 001:010	02-24-2020	Remain in Effect As Is
739 KAR 001:020	02-24-2020	Remain in Effect As Is
739 KAR 001:030	02-24-2020	Remain in Effect As Is
739 KAR 001:040	02-24-2020	Remain in Effect As Is
739 KAR 001:050	02-24-2020	Remain in Effect As Is
739 KAR 002:010	02-24-2020	Remain in Effect As Is
739 KAR 002:010	02-27-2020	Remain in Effect As Is
739 KAR 002:020	02-24-2020	Remain in Effect As Is
739 KAR 002:020	02-27-2020	Remain in Effect As Is
739 KAR 002:030	02-24-2020	Remain in Effect As Is
739 KAR 002:030	02-27-2020	Remain in Effect As Is
739 KAR 002:040	02-24-2020	Remain in Effect As Is
739 KAR 002:050	02-24-2020	Remain in Effect As Is
739 KAR 002:060	02-24-2020	Remain in Effect As Is
739 KAR 002:070	02-24-2020	Remain in Effect As Is
739 KAR 002:070	02-24-2020	Remain in Effect As Is
739 KAR 002:090	02-24-2020	Remain in Effect As Is
739 KAR 002:100	02-24-2020	Remain in Effect As Is
739 KAR 002:110	02-24-2020	Remain in Effect As Is
739 KAR 002:120	02-24-2020	Remain in Effect As Is
739 KAR 002:130	02-24-2020	Remain in Effect As Is
739 KAR 002:140	02-24-2020	Remain in Effect As Is
740 KAR 001:010	02-05-2020	Remain in Effect As Is
740 KAR 001:020	02-05-2020	Remain in Effect As Is
740 KAR 001:030	02-05-2020	Remain in Effect As Is
740 KAR 001:040	02-05-2020	Remain in Effect As Is
740 KAR 001:050	02-05-2020	Remain in Effect As Is
740 KAR 001:060	02-05-2020	Remain in Effect As Is
740 KAR 001:080	02-05-2020	Remain in Effect As Is
740 KAR 001:090	02-05-2020	Remain in Effect As Is
740 KAR 001:100	02-05-2020	Remain in Effect As Is
740 KAR 001:110	02-05-2020	Remain in Effect As Is
745 KAR 001:015	02-21-2020	Remain in Effect As Is
745 KAR 001:025	02-21-2020	Remain in Effect As Is
745 KAR 001:035	02-21-2020	To be amended, filing deadline 08-21-21
745 KAR 001:045	02-21-2020	Remain in Effect As Is
745 KAR 001:055	02-21-2020	Remain in Effect As Is
745 KAR 001:060	02-21-2020	Remain in Effect As Is
755 KAR 001:010	12-16-2019	Remain in Effect As Is
755 KAR 001:010	12-16-2019	Remain in Effect As Is
755 KAR 001:020	12-16-2019	Remain in Effect As Is
755 KAR 001:020	12-16-2019	Remain in Effect As Is
755 KAR 001:030	12-16-2019	Remain in Effect As Is
755 KAR 001:030	12-16-2019	Remain in Effect As Is
755 KAR 001:040	12-16-2019	Remain in Effect As Is
755 KAR 001:040	12-16-2019	Remain in Effect As Is
755 KAR 001:050	12-16-2019	Remain in Effect As Is

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Regulation Number	Letter Filed Date	Action
791 KAR 001:150	02-04-2020	To be amended, filing deadline 08-04-21
791 KAR 001:155	02-04-2020	To be amended, filing deadline 08-04-21
791 KAR 001:160	02-04-2020	To be amended, filing deadline 08-04-21
803 KAR 001:005	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:025	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:060	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:063	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:065	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:066	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:070	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:075	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:080	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 001:090	02-26-2020	To be amended, filing deadline 08-26-21
803 KAR 002:010	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:015	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:016	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:018	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:019	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:021	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:040	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:050	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:060	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:062	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:070	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:080	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:090	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:095	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:100	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:110	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:115	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:120	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:122	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:125	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:127	02-25-2020	To be amended, filing deadline 08-25-21

Regulation Number	Letter Filed Date	Action
803 KAR 002:130	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:140	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:170	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:220	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:230	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:240	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:301	02-25-2020	To be amended. Amendment filed 3-19-20.
803 KAR 002:304	02-25-2020	To be amended. Amendment filed 3-19-20.
803 KAR 002:310	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:311	02-25-2020	To be amended. Amendment filed 3-19-20.
803 KAR 002:312	02-25-2020	To be amended. Amendment filed 3-19-20.
803 KAR 002:315	02-25-2020	To be amended. Amendment filed 3-19-20.
803 KAR 002:316	02-25-2020	To be amended. Amendment filed 3-19-20.
803 KAR 002:319	02-25-2020	To be amended. Amendment filed 3-19-20.
803 KAR 002:401	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:405	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:408	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:409	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:410	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:413	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:414	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:415	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:416	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:417	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:420	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:422	02-25-2020	To be amended. Amendment filed 03-12-20.
803 KAR 002:424	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:430	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 002:600	02-25-2020	To be amended, filing deadline 08-25-21
803 KAR 003:010	02-26-2020	Remain in Effect As Is
803 KAR 003:020	02-26-2020	Remain in Effect As Is
803 KAR 003:030	02-26-2020	Remain in Effect As Is
803 KAR 003:040	02-26-2020	Remain in Effect As Is
803 KAR 003:060	02-26-2020	Remain in Effect As Is
803 KAR 025:015	08-20-2019	To be amended, filing deadline 02-20-21
803 KAR 025:021	08-20-2019	To be amended, filing deadline 02-20-21
803 KAR 025:220	08-20-2019	To be amended, filing deadline 02-20-21

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Regulation Number	Letter Filed Date	Action
804 KAR 007:020	03-26-2019	To be amended. Amendment filed 04-15-19, effective 8-2-2019.
806 KAR 002:070	02-26-2020	Remain in Effect As Is
806 KAR 002:088	02-26-2020	Remain in Effect As Is
806 KAR 002:095	02-26-2020	Remain in Effect As Is
806 KAR 003:110	02-26-2020	Remain in Effect As Is
806 KAR 003:150	02-26-2020	Remain in Effect As Is
806 KAR 003:160	02-26-2020	Remain in Effect As Is
806 KAR 003:170	02-26-2020	Remain in Effect As Is
806 KAR 003:190	02-26-2020	Remain in Effect As Is
806 KAR 003:230	02-28-2020	Remain in Effect As Is
806 KAR 004:010	02-26-2020	Remain in Effect As Is
806 KAR 005:025	02-28-2020	Remain in Effect As Is
806 KAR 005:060	02-28-2020	Remain in Effect As Is
806 KAR 006:010	02-26-2020	Remain in Effect As Is
806 KAR 006:020	02-26-2020	Remain in Effect As Is
806 KAR 006:060	02-26-2020	Remain in Effect As Is
806 KAR 006:075	02-26-2020	Remain in Effect As Is
806 KAR 006:080	02-26-2020	Remain in Effect As Is
806 KAR 006:090	02-26-2020	Remain in Effect As Is
806 KAR 006:100	02-26-2020	Remain in Effect As Is
806 KAR 006:110	02-26-2020	Remain in Effect As Is
806 KAR 006:120	02-26-2020	Remain in Effect As Is
806 KAR 006:130	02-26-2020	Remain in Effect As Is
806 KAR 007:090	02-26-2020	Remain in Effect As Is
806 KAR 007:110	02-26-2020	Remain in Effect As Is
806 KAR 008:010	02-26-2020	Remain in Effect As Is
806 KAR 009:265	02-28-2020	Remain in Effect As Is
806 KAR 011:010	02-26-2020	Remain in Effect As Is
806 KAR 011:020	02-26-2020	Remain in Effect As Is
806 KAR 012:010	02-26-2020	Remain in Effect As Is
806 KAR 012:020	02-26-2020	Remain in Effect As Is
806 KAR 012:040	02-26-2020	Remain in Effect As Is
806 KAR 012:060	02-26-2020	Remain in Effect As Is
806 KAR 012:070	02-26-2020	Remain in Effect As Is
806 KAR 012:080	02-26-2020	Remain in Effect As Is
806 KAR 012:092	02-26-2020	Remain in Effect As Is
806 KAR 012:095	02-26-2020	Remain in Effect As Is
806 KAR 012:110	02-26-2020	Remain in Effect As Is
806 KAR 012:120	02-26-2020	Remain in Effect As Is
806 KAR 012:131	02-26-2020	Remain in Effect As Is
806 KAR 012:140	02-26-2020	Remain in Effect As Is
806 KAR 012:150	02-26-2020	Remain in Effect As Is
806 KAR 012:160	02-26-2020	Remain in Effect As Is
806 KAR 012:170	02-26-2020	Remain in Effect As Is
806 KAR 012:180	02-26-2020	Remain in Effect As Is
806 KAR 013:020	02-26-2020	Remain in Effect As Is
806 KAR 013:040	02-28-2020	Remain in Effect As Is
806 KAR 013:090	02-26-2020	Remain in Effect As Is
806 KAR 013:110	02-26-2020	Remain in Effect As Is
806 KAR 013:120	02-26-2020	Remain in Effect As Is
806 KAR 013:130	02-26-2020	Remain in Effect As Is
806 KAR 013:140	02-26-2020	Remain in Effect As Is
806 KAR 013:150	02-26-2020	Remain in Effect As Is
806 KAR 014:005	02-26-2020	Remain in Effect As Is
806 KAR 014:007	02-26-2020	Remain in Effect As Is
806 KAR 014:010	02-26-2020	Remain in Effect As Is
806 KAR 014:020	02-26-2020	Remain in Effect As Is
806 KAR 014:030	02-26-2020	Remain in Effect As Is
806 KAR 014:050	02-26-2020	Remain in Effect As Is
806 KAR 014:090	02-26-2020	Remain in Effect As Is
806 KAR 014:100	02-26-2020	Remain in Effect As Is
806 KAR 014:110	02-26-2020	Remain in Effect As Is
806 KAR 014:121	02-26-2020	Remain in Effect As Is
806 KAR 015:010	02-26-2020	Remain in Effect As Is
806 KAR 015:020	02-26-2020	Remain in Effect As Is
806 KAR 015:030	02-26-2020	Remain in Effect As Is

[illegible]

CERTIFICATION LETTER SUMMARIES

[illegible]

Regulation Number	Letter Filed Date	Action
907 KAR 020:020	12-06-2019	Remain in Effect As Is
907 KAR 020:025	12-06-2019	Remain in Effect As Is
907 KAR 020:030	12-06-2019	Remain in Effect As Is
907 KAR 020:035	12-06-2019	Remain in Effect As Is
907 KAR 020:040	12-06-2019	Remain in Effect As Is
907 KAR 020:045	12-06-2019	Remain in Effect As Is
907 KAR 020:050	12-06-2019	Remain in Effect As Is
907 KAR 020:055	12-06-2019	Remain in Effect As Is
907 KAR 020:060	12-06-2019	Remain in Effect As Is
907 KAR 020:075	12-06-2019	Remain in Effect As Is
907 KAR 020:100	12-06-2019	Remain in Effect As Is
908 KAR 001:300	01-07-2020	Remain in Effect As Is
908 KAR 001:310	12-18-2019	Remain in Effect As Is
908 KAR 001:315	12-18-2019	Remain in Effect As Is
908 KAR 001:320	12-18-2019	Remain in Effect As Is
908 KAR 001:380	12-18-2019	Remain in Effect As Is
908 KAR 001:400	12-18-2019	Remain in Effect As Is
908 KAR 002:010	12-18-2019	Remain in Effect As Is
908 KAR 002:020	12-18-2019	Remain in Effect As Is
908 KAR 002:030	12-18-2019	Remain in Effect As Is
908 KAR 002:050	12-18-2019	Remain in Effect As Is
908 KAR 002:060	12-18-2019	Remain in Effect As Is
908 KAR 002:090	12-18-2019	Remain in Effect As Is
908 KAR 003:010	12-18-2019	Remain in Effect As Is
908 KAR 003:020	12-18-2019	Remain in Effect As Is
908 KAR 003:025	12-18-2019	Remain in Effect As Is
908 KAR 003:030	12-18-2019	Remain in Effect As Is
908 KAR 003:040	12-18-2019	Remain in Effect As Is
908 KAR 003:190	12-18-2019	Remain in Effect As Is
908 KAR 005:010	12-18-2019	Remain in Effect As Is
910 KAR 001:150	01-07-2020	Remain in Effect As Is
910 KAR 001:160	01-07-2020	Remain in Effect As Is
920 KAR 001:030	11-12-2019	To be amended, filing deadline 04-18-21
921 KAR 001:020	12-06-2019	To be amended, filing deadline 06-06-21
921 KAR 001:390	12-06-2019	To be amended, filing deadline 06-06-22
921 KAR 003:010	11-26-2019	To be amended, filing deadline 05-26-21
921 KAR 003:020	11-26-2019	To be amended, filing deadline 05-26-21
921 KAR 004:116	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 001:300	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 001:370	11-26-2019	Remain in Effect As Is
922 KAR 001:380	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 001:390	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 001:520	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 001:540	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 002:230	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 002:240	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 002:250	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 005:020	11-26-2019	To be amended, filing deadline 05-26-21
922 KAR 006:040	12-06-2019	Remain in Effect As Is
922 KAR 006:045	12-06-2019	Remain in Effect As Is
922 KAR 008:010	11-26-2019	Remain in Effect As Is

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered during *Register* year 46. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.225(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	Regulation Number	Date Corrected
102 KAR 001:036‡	01-13-2020	401 KAR 059:023‡	09-04-2019
103 KAR 016:370	02-19-2020	401 KAR 061:010‡	09-04-2019
103 KAR 028:150	10-31-2019	401 KAR 061:011‡	09-04-2019
103 KAR 030:290	10-10-2019	401 KAR 100:030	05-07-2019
103 KAR 031:180	10-10-2019	401 KAR 101:010	05-07-2019
105 KAR 001:130	06-28-2019	401 KAR 101:020	05-07-2019
105 KAR 001:147	09-12-2019	401 KAR 101:030	05-07-2019
105 KAR 001:150	06-28-2019	401 KAR 101:040	05-07-2019
105 KAR 001:160	06-28-2019	401 KAR 102:010	05-07-2019
105 KAR 001:170	06-28-2019	739 KAR 002:020	02-27-2020
105 KAR 001:180	01-29-2020	739 KAR 002:030	02-27-2020
105 KAR 001:190	06-11-2019	739 KAR 002:070	02-27-2020
105 KAR 001:220	06-11-2019	802 KAR 003:010	11-22-2019
105 KAR 001:240	01-29-2020	804 KAR 004:400	12-03-2019
105 KAR 001:260	06-11-2019	804 KAR 004:410	12-03-2019
105 KAR 001:400	06-11-2019	804 KAR 006:020	12-03-2019
105 KAR 001:430	06-28-2019	804 KAR 010:031	12-03-2019
105 KAR 001:440	06-11-2019	805 KAR 008:060	09-09-2019
106 KAR 001:050‡	09-04-2019	806 KAR 002:070	03-10-2020
201 KAR 027:008	11-22-2019	806 KAR 006:020	03-10-2020
201 KAR 027:011	11-22-2019	806 KAR 006:060	03-10-2020
201 KAR 027:020	11-22-2019	806 KAR 006:075	03-10-2020
201 KAR 027:021	11-22-2019	806 KAR 006:090	03-10-2020
302 KAR 035:060‡	09-04-2019	806 KAR 006:120	03-10-2020
401 KAR 039:060	05-07-2019	806 KAR 006:130	03-10-2020
401 KAR 039:080	05-07-2019	806 KAR 013:090	03-10-2020
401 KAR 042:020	05-07-2019	806 KAR 013:110	03-10-2020
	09-25-2019	806 KAR 013:130	03-10-2020
401 KAR 042:060	05-07-2019	806 KAR 013:140	03-10-2020
	09-25-2019	806 KAR 015:010	03-10-2020
401 KAR 042:250	05-07-2019	806 KAR 015:020	03-10-2020
	09-25-2019	806 KAR 015:030	03-10-2020
401 KAR 042:330	05-07-2019	806 KAR 017:030	03-10-2020
	09-25-2019	806 KAR 017:050	03-10-2020
401 KAR 045:040	05-07-2019	806 KAR 017:081	03-10-2020
401 KAR 045:070	05-07-2019	806 KAR 017:083	03-10-2020
401 KAR 045:080	05-07-2019	806 KAR 017:160	03-10-2020
401 KAR 045:090	05-07-2019	806 KAR 017:190	03-10-2020
401 KAR 045:100	05-07-2019	806 KAR 017:250	03-10-2020
401 KAR 045:135	05-07-2019	806 KAR 017:490	03-10-2020
401 KAR 045:135	05-07-2019	806 KAR 019:010	03-10-2020
401 KAR 046:120	05-07-2019	806 KAR 019:020	03-10-2020
401 KAR 047:090	05-07-2019	806 KAR 019:030	03-10-2020
401 KAR 047:095	05-07-2019	806 KAR 024:010	03-10-2020
401 KAR 047:110	05-07-2019	806 KAR 026:010	03-10-2020
401 KAR 047:205	05-07-2019	806 KAR 026:020	03-10-2020
401 KAR 048:090	10-03-2019	806 KAR 030:040	03-10-2020
401 KAR 048:205	05-07-2019	806 KAR 030:040	03-10-2020
401 KAR 045:206	05-07-2019	806 KAR 030:050	03-10-2020
401 KAR 048:207	05-07-2019	806 KAR 030:060	03-10-2020
401 KAR 048:208	05-07-2019	806 KAR 030:080	03-10-2020
401 KAR 048:310	05-07-2019	806 KAR 030:090	03-10-2020
	10-03-2019	806 KAR 030:100	03-10-2020
401 KAR 049:011	05-07-2019	806 KAR 038:010	03-10-2020
401 KAR 049:080	05-07-2019	806 KAR 038:040	03-10-2020
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401 KAR 059:021‡	09-04-2019		

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808 KAR 001:170	12-03-2019	922 KAR 001:560	11-07-2019
808 KAR 009:050	12-03-2019		
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808 KAR 010:460	12-03-2019		
808 KAR 010:500	12-03-2019		
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820 KAR 001:025	11-22-2019		
820 KAR 001:032	11-22-2019		
820 KAR 001:042	11-22-2019		
820 KAR 001:055	11-22-2019		
820 KAR 001:057	11-22-2019		
820 KAR 001:130	11-22-2019		
900 KAR 002:040	03-17-2020		
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900 KAR 006:060	03-17-2020		
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900 KAR 006:105	03-17-2020		
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902 KAR 004:120	03-18-2020		
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902 KAR 010:121	03-18-2020		
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902 KAR 100:170	03-18-2020		
902 KAR 050:005† colon, Section 1(3)	09-01-2019		
907 KAR 001:039	03-20-2020		
907 KAR 001:054	03-20-2020		
907 KAR 001:055	03-20-2020		
907 KAR 001:075	03-20-2020		
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